# Community Development Block Grant Program

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# 2019 CDBG ADMINISTRATIVE MANUAL

## TABLE OF CONTENTS


**CHAPTER I - PROJECT/GRANT ADMINISTRATION**

| | |
|---|---|
| Project/Grant Administration | I-1 |
| Standard Procedures | 2 |
| Selecting an Administrator | 3 |
| Suggested Roles for Grantee Administration | 5 |
| Recordkeeping | 6 |
| Internal Monitoring | 7 |
| Recommended File Structure | 7 |
| Monitoring Checklist | 16 |
| Property Management | 47 |
| Program Administration Helpful Hints | 49 |

**CHAPTER II - CITIZEN PARTICIPATION**

| | |
|---|---|
| Citizen Participation | II-1 |
| Public Hearing Notices | 3 |
| Citizen Participation Helpful Hints | 6 |

**CHAPTER III - FINANCIAL MANAGEMENT**

| | |
|---|---|
| Financial Management | III-1 |
| Grant Payment | 1 |
| Authorized Signatures for CDBG Request for Funds (SFM01) | 3 |
| Designation of Depository: Direct Deposit (SFM02) | 3 |
| Vendor ACH/EFT Application | 4 |
| CDBG Funding Forms Checklist | 11 |
| Request for Funds (RFF) | 12 |
| RFF form | 15 |
| Establishing and Maintaining the CDBG Accounting System | 18 |
| Project Ledger | 21 |
| Program Income | 23 |
| Return of Overpayment or Unused Funds | 24 |
| Grant Agreement Amendment | 25 |
| Financial Management Helpful Hints | 27 |
| Reporting Requirements | 28 |
| Quarterly Performance Report | 29 |
| Reporting for Projects Funded With Annual CDBG Allocation | 30 |

Annual Data Reporting for CDBG Activities 32
Remediation Plans for At-Risk CDBG Projects 33

**CHAPTER IV - ENVIRONMENTAL REVIEW**

Table of Contents IV-1
Introduction 3
Steps in the CDBG Environmental Review Process 9
Timeline for CEST/EA Projects 14
Formatting and Document Requirements 16
Public Participation 16
Preliminary Engineering & Architectural Reports 17
Conditions of Approval 17
Tiering 18
Multi-Year/Phased Projects 21
Other Federal/State/Local Agency Environmental Reports 21
CDBG Environmental Impact Checklist 22
Amending the ERR 23
Property Acquisition 27
Option Agreement 28
Water/Wastewater Projects 30
Economic Development Projects 31
Determination of Level of Environmental Review 36
Finding of Exemption 37
Finding of Categorical Exclusion NOT Subject to Related Statutory Authorities 38
Other Requirements 39
Environmental Assessment/Statutory Checklist Review 40
Statutory Checklist Cover Page 44
Environmental Assessment Cover Page 48
Related Laws and Authorities 53
Additional Environmental Factors 79
Environmental Public Notices and Comment Periods 88
Public Notice Templates 89
Environmental Notices Distribution List 95
Request for Release of Funds & Certification 97
Permissible Bases for Objections 100

**CHAPTER V - PROCUREMENT STANDARDS**

Overview V-1
Procurement Methods 1

General Procurement Procedures 5
DED Conflict of Interest Policy 9
Conflict of Interest Public Hearing Notice 11
RFP Preselection (Professional Administrative Services) 12
RFQ Combined Preselection (Professional Engineering Services) 13
RFP (Demolition Inspection) 14
RFP (Asbestos Inspection) 15
Advertisement for Bid (Demolition and/or Asbestos Removal) 16
RFP Evaluation Matrix 17
County Procurement and Conflict of Interest Policy 18
City Procurement Policy 19
City Code of Conduct Policy 21

**CHAPTER VI - CONTRACT MANAGEMENT**

Introduction VI-1
Proper Flow of Grant Dollars 1
Responsible Parties 1
Legal Review 1
Contract Management 2
Contract Content 2
Common Rules Regarding Contracting (with CDBG monies) 5
Acceptable Contract Cost Structures 5
Alternative Deductibles/Alternate Add-Ons in Construction Bidding 5
Addendum Procedure 6
Amendment Procedure 6
Award of Contract 6
Federally Debarred Contractors 6
Contractors Licensed to Do Business in Missouri 6
Businesses in Good Standing with the Secretary of State 6
State Debarred Contractors 6
Dept. of Treasury's Listing of Approved Sureties 7
Internal Control 7
Engineer/Consultant Certificate of Completed Work 7

**SAMPLE CONTRACTS**

Agreement between Grantee and Sub grantee 8
Intergovernmental Agreement 9
Professional Services Contract Content Checklist 10
Construction Contract Content Checklist 10
Professional Administrative Services Agreement 12

Contract for Engineering and Technical Services 20

**BID AND CONTRACT DOCUMENTS**

Bid Packet for Construction Contracts Forms 28
Advertisement for Bids 29
Information for Bidders 30
Bonding and Insurance Requirements 33
Bid Bond 34
Bid for Lump Sum Contracts 35
Bidder Qualifications 37
Certification of Bidder Regarding EEO 39
Cert. of Contemplated Minority, Women, & Section 3 Hires & Bus. Utilization 40
Certification by Subcontractor Regarding EEO 42
Anti-Lobbying Certification 43
Certification Regarding Government-Wide Restriction on Lobbying 44
Performance Bond 45
Payment Bond 47
Contract for Construction 50
Certificate of Owner's Attorney 52
Engineer/Consultant's Certification for Acceptance and Final Payment 53
General Conditions 54
Affidavit (Section 282.530) 74
Federal Labor Standards Provisions 75
HUD Supplemental General Conditions 80
Summary of Civil Rights Laws, Executive Orders, and Regulations 91
Contract Management Helpful Hints 93

**CHAPTER VII - LABOR STANDARDS**

Federal Statutory Provisions VII-1
Missouri Prevailing Wage Law 2
Grant Administration Duties 3
Record of Employee Interview 4
Applicable Wage Order Selection 5
Applicable Wage Order Selection (Continued) 6
Clarification Concerning Payroll Deductions 7
Reporting Additional Work Classification 7
Force Account Labor 8
Owner/Operators 8
1099 Workers 8
Site of Work 8

| | |
|---|---|
| Calculating Overtime | 9 |
| Split Classification and Overtime | 9 |
| Verifying Apprentice | 9 |
| Exhibit 1 DOL Apprenticeship Certification | 11 |
| Exhibit 2 Apprenticeship Agreement | 12 |
| Demolition and Davis Bacon Applicability | 13 |
| Installation of Equipment and Davis Bacon Applicability | 13 |
| Electronic Signature on Certified Payrolls | 14 |
| Labor Standards Violations | 15 |
| Labor Standards File Records | 16 |
| Pre-construction Report Format | 17 |
| Fringe Benefits Code of Federal Regulations | 18-20 |
| Davis Bacon & Related Acts (DBRA) Checklist | 21-23 |
| Payroll Authorization Letter | 24 |
| Request for Federal Wage Determination Form | 25 |
| Start of Construction Notification | 26 |
| Certified Payroll Review Sheet | 27-28 |
| Fringe Benefit Disclosure Form | 29 |
| Sample Certified Payroll WH-347 | 30-31 |
| Instructions for Completing Payroll Form, WH-347 | 32-35 |
| Instructions for Preparation of Statement of Compliance | 36-37 |
| CDBG Employee Restitution Checklist | 38 |
| Record of Employee Interview | 39-40 |
| Request for Authorization of Additional Classification and Rate | 41-42 |
| Specialty Classes | 43 |
| Prevailing Wage "Employee Rights Under the Davis-Bacon Act" Poster | 44 |
| Equal Employment Opportunity Poster | 45-46 |
| Job Safety & Health Protection Poster | 47 |
| Project Notification – Contractor Information Notification | 48 |
| Contractors Check-Off List (State) | 49-50 |
| Labor Standards Helpful Hints | 51 |

**CHAPTER VIII - CIVIL RIGHTS**

| | |
|---|---|
| Introduction: Civil Rights | VIII-1 |
| Section 1: Fair Housing | 1 |
| Fair Housing/Grievance Process | 5 |
| Section 2: CDBG Contracting Opportunities | 7 |
| Section 3: Project Contract Reporting | 10 |
| Contract and Subcontract Activity Report & Instructions | 12 |

Section 3 Summary Report & Instructions 14
Section 4: Employment Opportunities 17
Section 5: LGBT Equal Access Rule for HUD Programs 17
Section 6: Limited English Proficiency (LEP) CDBG Program Access 17
Section 7: Section 504 Program Accessibility/Disability Compliance 19
Section 504 Model Self/Evaluation for Section 504 Disability & ADA Compliance 19
Section 504 Accessibility Transition Plan Outline 22
Section 504 Sample Grievance Procedure 24
Summary of Civil Rights Program Requirements 25
DED Monitoring 25
Civil Rights Helpful Hints 26
Summary of Civil Rights Laws & Regulations Applicable to the CDBG Program 27

**CHAPTER IX – ACQUISITION & RELOCATION**

Acquisition – Introduction, Environmental Review, Application IX-1
Property Acquisition Procedures 4
Acquisition Recordkeeping Requirements 8
Uniform Act Relocation Requirements 8
Relocation Assistance Recordkeeping Requirements 12
Residential Anti-Displacement and Relocation Assistance Plan Requirements 13
CDBG Monitoring 15
Appendix 16
Acquisition Process Under Uniform Act 17
General URA Chart Acquisition Process – Voluntary vs Involuntary 18
DED/CDBG Project Easement Brochure 19
HUD Voluntary Acquisition Notice – with Eminent Domain Authority 21
HUD Voluntary Acquisition Notice – without Eminent Domain Authority 22
Preliminary Acquisition Notice 23
Waiver of Just Compensation & Appraisal Rights 24
Waiver of Just Compensation Right Only 25
Statement of the Basis for Offer of Just Compensation 26
Offer to Purchase/Parcel of Land 27
Offer to Purchase/Easement 28
Final Offer to Acquire Property 29
Guide for Jointly-Funded FEMA/CDBG and DED/CDBG Buyout Projects 30
Acquisition and Relocation Helpful Hints 32

**CHAPTER X – DEMOLITION ACTIVITY COMPLIANCE REQUIREMENTS**

Introduction to Demolition Compliance Requirements X-1
National Objective: Slum & Blight Criteria (Spot & Area) 1

Procurement and Equal Opportunity 2
Labor Requirements 3
Demolition Waste Disposal Requirements 4
Grantee's Demolition Program Sample Ordinance/Resolution 7
Municipal League's Model Unsafe Dangerous Building/Nuisance Ordinance 8
Property Owner's Demolition Consent, Release and Agreement to Maintain Lot 12
Sample Demolition Inspector Write-Up 13
Bonding and Insurance Requirements 14
Notice to Proceed 16
Demolition (Sample) Contract 17
Certificate of Final Inspection 43
Demolition Tracking Sheet 44
DNR's Construction and Demolition Waste Guidance 45
DNR's Managing Construction and Demolition Waste 47
DNR's Facts on Open Burning under Missouri Regulations 53
DNR's Disposal of Demolition Waste Contaminated with Lead or Heavy Metals 57
DNR's Asbestos Requirements for Demolition and Renovation Projects 60
DNR's Management of Non-friable Asbestos Containing Material 65

**CHAPTER XI - CDBG CLOSEOUT**

CDBG Close-out XI-1
Close-Out Report 6
Income Data for Program Beneficiaries 7
Population Group Data for Direct Beneficiaries 8
Population Group Data for Direct Beneficiary Applicants 9
Population Group Data for Indirect Beneficiaries 10
Project Accomplishments 11
Data Collection for CDBG Activities 12
Economic Development Close-Out Form 14
Instructions for Completing Certificate of Completion 17
Certificate of Completion Form 19
Instructions for Completing Disclosure Report 21
Attachment A 22
Applicant Disclosure Report 24
Eligible Activities 27
Contractor/Sub Contractor Activity Report 28
Section 3 Summary Report 30
Close-out Helpful Hints 33

**CHAPTER XII - ECONOMIC DEVELOPMENT**


| | |
|---|---|
| Document the National Objective | XII-1 |
| Creation of Jobs for LMI Persons | 1 |
| Retention of Jobs for LMI Persons | 2 |
| Permanent Jobs | 2 |
| Additional Reporting | 2 |
| LMI | 2 |
| Private Investment Commitment | 3 |
| Citizen Participation | 3 |
| Labor Standards | 3 |
| Procurement | 3 |
| Conflict of Interest Policy | 3 |
| Environmental Review | 3 |
| Civil Rights | 3 |
| RFF Documentation | 4 |
| Closeout | 4 |
| Program Income | 4 |
| Timing of Jobs | 4 |
| Documentation for Jobs for LMI Persons | 5 |
| Instructions for Completing Employment Forms | 6 |
| Employment Status Statement | 7 |
| Employment Summary Sheet | 9 |
| Applicant Summary Sheet | 11 |
| Program Income Form ED/4 | 12 |

# CHAPTER I

## PROJECT/GRANT ADMINISTRATION

**Introduction**

The success of a Community Development Block Grant (CDBG) project depends upon careful management and administration.

This involves planning and scheduling, knowledge and responsibility of a variety of management functions, effective oversight of program activities and attention to detail.

The project should be managed to maintain progress and assure compliance. The CDBG policies and regulations are proper, sound business practices for the completion of any public project. The knowledge and understanding of these policies and regulations will allow for a process that will work hand in hand with achieving the desired project goals.

This manual is designed to assist CDBG recipients with project activities and compliance. It contains the regulation, policy or rule, and a number of forms and samples to assist with managing the grant and understanding the process.

The initial project/grant management responsibilities are:

1. Standard procedure
2. Selection of an administrator
3. Duties that are key to the program
4. Recordkeeping
5. Internal monitoring
6. File structure

Careful attention to these matters will help get the project started properly.

**Other important sections in this chapter:**

- Sample Administration File Structure
- Monitoring Checklists/Desk Review
- Property Management

# STANDARD PROCEDURE

A variety of procedures exist that must be fulfilled for your CDBG project/grant to be successful. We want to ensure an effective and efficient use of public dollars. The requirements should not be viewed as a hindrance. Rather, they are tools for the community to protect their own and the public's interests as investors in the project. Each area of responsibility is discussed in greater detail in later sections of this handbook.

Briefly, those responsibilities include:

1. **General Program/Grant Management**:

Recordkeeping (saving documents, filing, keeping receipts, etc.)

Financial Management (tracking all of the project dollars)

Citizen Participation (including your citizens in the project)

Procurement (how to purchase materials and select contractor)

Contract and Property Management (who to contract with and what the document should say)

Close-Out and Audit Requirements (how to finalize your project)

2. **Environmental Requirements –** The process that examines what effect your project activities will have on the environment.
3. **Labor Standards –** Payment of state prevailing wage and Federal Davis Bacon wages to all contractor employees.
4. **Civil Rights –** Ensuring equal opportunity under the law.
5. **Acquisition and Relocation –** Protecting landowner and homeowner rights.

Knowledge of these responsibilities allows the community to start initial planning of the administrative structure and processes to make certain that these responsibilities are fulfilled. Decisions must be made about how the program will be administered and who will be responsible for various tasks that must be carried out along the way to program completion.

**REGARDLESS OF THE ADMINISTRATIVE METHOD USED, THE GRANTEE HAS THE RESPONSIBILITY OF SEEING THAT THE GRANT IS CARRIED OUT PROPERLY AND RETAINS LIABILITY FOR THE GRANT**.

# SELECTING AN ADMINISTRATOR

There are three basic approaches that the community can take to the management of the CDBG grant.

1. The community may manage the grant itself, using available staff.
2. The community may hire new staff specifically for purposes of managing the grant.
3. The community may contract with a third party (e.g., a regional planning commission or a private consultant) to manage the grant.

Each approach has advantages and disadvantages, and the choice should be made on the basis of careful consideration of the circumstances in the community and the nature of the funded project.

## Using Current Staff

This approach has certain advantages. Individuals involved with the project will be familiar with existing administrative routines, and they will know where to go to obtain needed support and information. They will be familiar with the community's goals, particularly if they were involved in planning for the project; thus, they can ensure project implementation in a way that is consistent with those goals. In addition, the use of existing staff eliminates the need to hire and train new staff. It avoids any problems the community might face in working with a third party.

This approach should probably be taken if the community has available staff with sufficient time to undertake the added responsibilities. Staff will either need to work on an overtime, extra-compensation basis, or they will have to defer other activities. Competent staff should be able to manage the program well, if they engage in sufficient administrative planning. Previous work with Federal grants provides important experience, since a variety of Federal laws and regulations apply to project activities.

Regular city staff whose time is committed to the grant project cannot be paid from the grant funds unless they receive overtime pay, their salaries are increased to reflect additional duties associated with the CDBG program, or their job descriptions are temporarily changed to defer or reassign duties. Grant funds are paid to the general fund and the extra pay dispersed through the regular employee-pay method. Only the addition to their salary can be paid from grant funds, and this **must** be approved by DED before such salary costs are incurred. All hours worked on the program must be documented with time sheets for each employee involved, and payment must coincide with hours worked. Suggested employee roles for local administration are included herein.

## Hiring New Staff

If current staff does not have sufficient time to administer the project, consideration should be given to hiring additional staff to provide necessary support. The advantage of this approach is that the person or persons hired for this purpose will be on hand on a daily basis and will be able to work closely with local officials in administering the grant. A problem is that it may be difficult to find qualified individuals for temporary, perhaps part-time positions. Again, all employees paid from CDBG funds must document time spent on the grant with timesheets, as payment must be for CDBG work only.

## Contracting Out

A third approach is to contract with a regional planning commission or private consultant to provide the necessary support. Many such organizations already have experience with CDBG and similar programs. They can bring considerable expertise to bear and relieve local officials of much of the burden of administering the grant. Engineering firms may qualify to administer a grant. However, an engineering firm cannot perform both administration and engineering on the same grant.

Someone on city staff should be familiar with project requirements so that the work of an outside administrator can be monitored properly, **as the grantee remains responsible for proper administration**. An administrator is simply another contractor of the community.

No grantee will be penalized if it does not have the capacity to properly administer the grant from existing staff members; rather, they should propose that an outside firm will be contracted or new staff will be hired, as appropriate, to administer the grant. Every grant must be administered by a competent person who will properly oversee the requirements set forth by Federal law and state regulations; therefore, the grantee must be assured competent administration when deciding this issue.

The program administration structure should be guided by the scope and difficulty of the approved CDBG program, prior grant experience, proper internal control, and financial management requirements. For example, a small-scale public facilities project with a single construction contract need not have an elaborate management structure. On the other hand, a housing rehabilitation program or economic development project may involve several contractors, bank negotiations, escrow accounts, the purchase of land and easements and the management of a revolving loan fund.

If the community decides to retain an outside organization to administer the project and proposes to use grant monies as all or part of administration payment, it must use the competitive proposal process (see the Procurement Chapter) to ensure that it receives the best help for the best price. It should use a well-developed contract to govern the relationship between itself and the administrator, specifying carefully the work elements to be completed and the time schedule for completion of the work elements. The community may wish to retain some administrative responsibilities. All such arrangements should be carefully spelled out in any contract.

The Procurement Chapter describes the **required** method of procurement that solicits all known grant administrators and the area RPC.

Contracts for administrative services cannot be on a pro-rated basis as the method of payment (a set amount per month for a pre-determined number of months) if CDBG money is used to pay for administration. As with any contract, payments should be based on monthly cost reimbursement or a percentage payment after milestones in the grant.

**REGARDLESS OF WHAT METHOD IS CHOSEN FOR GRANT ADMINISTRATION, GRANT FILES MUST BE RETAINED AT THE GRANTEE'S OFFICE OF BUSINESS.**

**Financial Management is the responsibility of the grantee, and cannot be contracted out to a grant administrator.**

**Responsible Local Individual:**

One person should be assigned as the point of contact for communication between:

- Grantee and state
- Grantee and administrator
- Grantee and contractors
- Grantee and engineer

# SUGGESTED ROLES FOR GRANTEE ADMINISTRATION

As noted, there are several areas of responsibility related to CDBG project/grant management. Also, as noted, there are a variety of approaches that can be taken to administer the project. However, it is useful for a community administering its own grant to think about two essential roles that should be clearly defined: **Community Development Project Manager and Community Development Finance Officer.**

**Responsibilities of Community Development Project Manager**

The Community Development Project Manager shall have overall project responsibility and shall be the focal point for the resolution of any problems that may develop in the course of project implementation. Specifically, this individual shall have the following responsibilities:

- oversee recipient and contractor compliance with statutory/program requirements
- contact point with DED
- recommend approval of third-party contracts
- recommend approval for purchase orders
- recommend and/or approve invoices/contractor payment
- oversee field review of project activities
- oversee project progress
- oversee CDBG budget/project amendments
- maintain project files
- complete DED reports on project performance
- monitor third-party contracts
- submit final close-out report(s)
- oversee annual audit requirements

**Responsibilities of the Finance Officer**

The Finance Officer is responsible for maintaining official CDBG financial records. The Finance Officer will be responsible for the following:

- maintenance and control of accounting documents approved for processing by the Community Development Project Manager
- preparation of financial reports based on accounting records
- preparation of grant requisitions (Request For Funds Form) subject to review by Community Development Project Manager
- entry of these and other accounting transactions into the accounting system
- maintenance of financial process files (working files)

In managing CDBG financial resources, there must be an appropriate division of responsibility regarding the request and receipt of CDBG monies. Proper internal control should be exercised to guard against opportunities for waste, fraud, and mismanagement.

# RECORDKEEPING

An adequate recordkeeping and filing system for the Missouri CDBG program is essential to document both recipient fulfillment of applicable regulations and accomplishment of program activities. Complete records are necessary for the two major aspects of CDBG audit, financial soundness and program compliance. Without adequate records to support programmatic decisions, even the best performed program will receive an adverse audit. As noted earlier, all files and records must be kept at grantee's business offices and must be available to the public during regular business hours, except confidential files relating to housing and/or economic development. Grantees are required to control grant funds and establish adequate safeguards to protect the records that document CDBG transactions.

## Record Retention Requirements

CDBG program records are to be maintained for a period of **five years**.

In the event of litigation, claims or other unresolved legal issues, the five-year period begins with the date noted on the Certificate of Completion. If litigation or other legal matters extend beyond the five-year period following the date on the Certificate of Completion, then the records retention period extends to the date of the final judgment or ruling in the case. The records retention requirement applies to "source documentation." This term refers to any writing that activates a flow of funds. Source documentation comprises purchase orders, invoices, contracts, checks, budget transfer memoranda and other transaction documentation. It also includes writings that verify compliance with nonfinancial components of program administration, such as inspection reports that confirm fulfillment of applicable regulations. For example, if a housing unit is inspected for lead-based paint, an inspection report noting the findings should be completed and filed. Original documents are preferred, but copies are acceptable as source documents.

## File Management Considerations

The importance of maintaining a logical and complete filing system cannot be overemphasized. The key consideration in designing any system is that it creates a clear "audit trail." This means that every transaction can be traced from beginning to end. (For example, a simple purchase of goods might begin with a purchase requisition followed by a purchase order that is matched with a receiving report when the goods arrive. These documents are then matched with a vendor's invoice and a check is processed. After appropriate accounting entries are made and the cancelled check is returned, the entire transaction may be filed.) Thus, the purchase may be traced from beginning to end by source documentation. The process of tracing is the primary concern of program auditors. A record and filing system that enables an auditor to quickly and easily trace transactions using source documentation and coding references will generally result in a favorable audit report. **See grant audit requirements in the Close-out Chapter of this manual.**

## INTERNAL MONITORING

One of the most important functions undertaken by CDBG grant recipients is monitoring, or grant oversight. The four primary components of CDBG monitoring are progress on planned activities, program compliance, fiscal management and fiscal compliance. This will require development of a monitoring system that will allow recipients to:

- manage their community development program as a whole, and individual projects and activities substantially, as described in the approved CDBG application
- maintain program or project progress
- determine that costs charged to the project are eligible
- ensure that all program activities comply with all applicable laws and regulations and terms of the grant agreement
- eliminate the opportunity for fraud, waste, and mismanagement

The key to successful monitoring of many different contracts simultaneously is to maintain constant contact with the contractors. This can be accomplished by frequent discussions and site visits as well as the formal means of communication. These site visits should include checks of progress toward project milestones, a review of compliance with each contract provision, and confirmation of satisfactory work prior to the approval of each invoice. Only by making these efforts can recipients ensure that CDBG program progress is being maintained as specified by the CDBG contract with DED. Please refer to the Contract Management Chapter in this manual.

Recipients must also develop procedures to monitor internal management. For example, it is absolutely essential that the Request for Release of Funds and Certification be approved by DED prior to the commencement of any CDBG activity other than administration (See the Environmental Review Chapter). Ensuring that program files are properly maintained, that adequate books and records are kept, and that reports to DED are submitted on a timely basis requires a system of internal monitoring.

By properly monitoring their program, recipients can promptly identify problems, make appropriate corrections while activities are ongoing, communicate with subrecipients on a routine basis, and report overall program status at any point in time.

Two suggestions to assist with internal monitoring follow:

1. A recommended file structure
2. A compliance monitoring checklist

## RECOMMENDED FILE STRUCTURE

Grant files are divided into categories and are coded to facilitate placement and retrieval of documents. If a recipient has more than one CDBG grant, separate files should be kept to distinguish between grant years. A sample of the CDBG file categories and their contents follows.

# CDBG ADMINISTRATION FILE STRUCTURE

Following is a recommended file structure for administering CDBG projects. The structure includes the documentation that should be included in each file. However, please note that this structure is not all-inclusive, but rather a thorough outline. If this structure is followed, grantees should have few, if any, monitoring findings.



**NATIONAL OBJECTIVE**

- All income surveys and tabulation sheet, if applicable
- Documentation of 51% LMI from census information, if applicable
- Documentation of alleviating slums and blight, if applicable
- Documentation of meeting an urgent health and safety need, if applicable



**CITIZEN PARTICIPATION**

- Affidavit of publication or certified posting for the public hearing held to review grant performance
- Minutes of performance review public hearing
- All criticisms, complaints, and grantees' responses to these criticisms and complaints
- Documentation of actions taken to involve all citizens in implementing the project



**FINANCIAL MANAGEMENT**

- Funding Approval/Grant Agreement
- Checkbook
- Activity ledger
- Bank statements and evidence of reconciliation
- All canceled checks
- Copies of all RFFs and supporting invoices reference with check numbers, dates, and amounts paid
- Cash match documentation including invoices, canceled checks, ledgers, etc. (If downtown revitalization, cash match must be one-for-one match with private investment.)
- In-kind match documentation including employees, pay per hour, and number of hours worked on project (time sheets)
- All contract amendments and supporting documentation
- Copies of SFM01, SFM02, and ACH form

- Copies of all project audits
- Copy of the close-out packet
- Evidence of use of program income as approved by DED, if applicable

**ENVIRONMENTAL REVIEW RECORD**

- Environmental Assessment
- Environmental Assessment Review Letter
- Affidavit of publication of Combined Notice or NOI/RROF
- Historic Preservation Clearance (including memorandum of agreement)
- Other applicable documentation such as floodplain notices, farmland impact rating, etc.
- Evidence that all notices were sent to the required agencies (Return Receipt or copies of dated and signed letters)
- All correspondence from CDBG staff (i.e., letters, e-mail logs, phone logs)
- All comments received and the grantee's responses to these comments
- Request for Release of Funds and Certification (signed by CEO)
- Removal of Grant Conditions
- Notice of Release of Environmental Requirements (for private monies only) (Economic development projects only)

**EQUAL OPPORTUNITY**

- Total indirect beneficiaries, including breakdown of LMI, female heads of household, Hispanic, and minorities (Black, Asian, Native Hawaiian/Pacific Islander, Native American, etc.)
- Total direct beneficiaries, including breakdown of LMI, female heads of household, Hispanic, and minorities, if applicable
- Total direct beneficiary applicants, including breakdown of female heads of household and minorities (for housing and economic development projects)
- Evidence that equal opportunity guidelines were followed for persons hired specifically for the CDBG project
- Section 3 documentation
- All Contract and Subcontract Activity Reports
- Documentation of actions taken to further Fair Housing for each subsequent year the grant is open

- Documentation that Fair Housing impediments have been identified
- All equal opportunity/civil rights complaints and grantee's response to these complaints

**PROCUREMENT AND CONTRACT MANAGEMENT**

- Copy of grantee's procurement and conflict of interest policies
- Copies of the intergovernmental agreement
- Evidence that grantee maintains a listing of all MBE, WBE, and Section 3 firms and the list was directly solicited for project activities.
- Copies of grantee/subgrantee agreement
- Approval from DED if less than three bids are received for any contract
- Evidence that the following certifications and executive orders are in all project contracts (Section 504, Section 109, Age Discrimination Act, Executive Order 11063, Executive Order 11246 (contracts exceeding $10,000), Section 3 (contracts exceeding $100,000), and Affirmative Action Plan

<u>Administration Contract</u>

- Copy of the Request for Proposals (RFP) identifying all evaluation factors (see sample Administration RFP) (Note: Cost must be a factor.)
- Evidence that all known area administrators were solicited, including MBE and WBE firms
- Evidence of the selection criteria for award, including minutes of the meeting
- Documentation that all unsuccessful bidders were notified in writing
- Selected administrator's license/debar check clearance letter from CDBG
- Executed administration contract as well as all proposals received

<u>Engineering/Architectural Contract</u>

- Copy of the Request for Qualifications (RFQ) identifying all evaluation factors (see sample Engineering/Architectural RFQ) (Note: Cost cannot be a factor.)
- Evidence that all known area engineers/architects were solicited, including MBE and WBE firms
- Evidence of the selection criteria for award, including minutes of the meeting
- Documentation that all unsuccessful bidders were notified in writing
- Selected engineer/architect's license/debar check clearance letter from CDBG
- Executed engineering contract as well as all proposals received

Construction Contract

- Selected contractor's and surety company's, if applicable, license/debar check clearance letter from CDBG
- Executed construction contract and bid specifications
- Bid, performance, and payment bonds
- Evidence that bids contain language relating to labor provisions, bonding, and equal employment opportunity
- Documentation that items to be bid are clear and without reference to specific brand requirements
- Labor Standards Provisions as well as the CDBG General Conditions and Supplemental Conditions
- Contractor certifications
- Subcontractor certifications, if applicable
- Correct state and Federal wage rates
- Affidavit of publication for bids in a general circulation newspaper (newspaper of widest circulation in the region)
- Affidavit of publication for bids in minority and trade publications or evidence of direct solicitation
- Documentation of the public meeting held to open bids as well as the bid tabulation

Small Purchase Contracts, if applicable

- Listing of all vendors solicited, including MBE, WBE, and Section 3 firms, and price quotations
- Copy of specifications provided to vendors, whether goods or services
- Selected vendor's license/debar check clearance letter from CDBG
- Executed contract

**LABOR STANDARDS**

- Documentation that wage rates were verified within 10 days of opening bids
- Documentation that the contractor eligibility was verified (disbarment check)
- The Start of Construction Notice, including copy of DNR construction permit

- The pre-construction report and minutes
- Evidence that all contractors and subcontractors are in good standing with the State of Missouri
- Separate payroll file for each contractor and subcontractor
  - All project payrolls complete with names, four digit identification number, work classifications, hourly rates, etc.
  - Statement of compliance for each payroll
  - Payroll Authorization Letter, if applicable
  - Documentation of fringes per hour for each classification, if applicable
  - Documentation of "other deductions" accompanied with an employee and employer agreement for said deductions, if applicable
  - Apprentice documentation, if applicable
  - Documentation of Payroll Review Sheet for corresponding Payrolls
  - Employee interviews to cover a representative number of trades throughout the project

**ACQUISITION**

- Separate file for each property acquisition
  - Preliminary acquisition notice to acquire, including invitation to accompany appraiser
  - Documentation that all landowners were provided with the brochure "When A Public Agency Acquires Your Property" (Return Receipt or signed statement)
    - Donations
      - Waiver of rights to just compensation and release of grantee's obligation to an appraisal
      - If not waived, copy of appraisal or determination of value data
      - All required title documentation including deed, recording evidence, etc.
    - Voluntary Acquisition
      - Evidence of advertisement or invitation of property solicitation, including non-specific site and option to not acquire if negotiations fail
    - Standard Acquisition
      - Appraisal and review appraisal

- If not appraised, documentation that property valued at less than $10,000
- Written offer to purchase, including statement for determining offer (Return Receipt)
- Evidence of clear title, survey, deed, and legal description
- Proof of payment
- Recorded deed
- Report of Commendation Commissioners if result of condemnation
- Written notice not to acquire, if applicable (Return Receipt)
- Rental agreement and short term lease, if applicable
- Evidence that the grantee has adopted appeal procedures
- Evidence the property owner was informed of his right to appeal and judicial review (Return Receipt)
- Evidence of grantee's written determination of appeal (Return Receipt)
- Evidence of state's written determination of appeal (Return Receipt)

**ECONOMIC DEVELOPMENT**

- Current payroll listing, including dates of hire
- Employment Status Statements for all employees hired after job creation start date and completed summary sheet
- Summary sheet indicating demographic data for all job applicants
- Summary of private investment with supporting invoices and/or canceled checks
- Documentation of repayment of program income, if applicable

**RELOCATION**

Separate file for each relocation

- Notice of eligibility for relocation assistance (Return Receipt)
- Evidence tenant was provided with applicable HUD brochure (Return Receipt)
- Evidence of the 90-day Advance Notice to Move (Return Receipt)
- Claim forms (e.g., tenant assistance or down payment assistance, replacement housing payment, moving and related expenses, etc.)

- Evidence of donation if owner donates property in lieu of relocation payment
- Documentation of payment (relocation and moving expense)
- Selection of Most Representative Comparable Replacement Dwelling form
- Evidence that the selected replacement unit was inspected and determined to meet DSS standards
- Documentation that unit is infeasible to rehab and no comparable unit exists in the grantees jurisdiction, if applicable
- Evidence that displaced persons were notified of relocation assistance under 104(d), if applicable
- Grantee's Residential Antidisplacement and Relocation Assistance Plan
- Grantee's one-for-one replacement plan, if applicable
- Evidence that the grantee has adopted appeals procedures
- Evidence of informing individual of his right to an appeal and judicial review (Return Receipt)
- Notice of Denial of Relocation Assistance Claim, if applicable
- Evidence of grantee's written determination of appeal (Return Receipt)
- Evidence of state's written determination of appeal (Return Receipt)

## MONITORING CHECKLISTS

Depending upon the complexity of the project and the familiarity of the grantee with CDBG, a project may be formally monitored either one or two times. The monitoring will be scheduled well in advance with the community and their administrator.

Technical assistance visits may also be made by staff, if requested or determined that it would best suit the grantee and the State's investment of grant dollars. Technical assistance visits are made to assist the grantee toward achieving successful project completion. The experience of the staff toward problem resolution and recommending alternative solutions is a source and a benefit that every grantee needing assistance should utilize.

The following checklists are provided for the benefit of the grantee. They contain the review of every area of compliance for which the grantee is responsible, and they represent the same documents that the field representative uses in determining the performance of the grantee.

**CDBG General Monitoring Checklist**

**Grantee: _____ Project Number: _____**

Monitoring Date: _____
Monitoring Type: _____
Monitoring Conducted By: _____
Grantee Staff Present: _____
_____

CDBG award amount: _____
CDBG award date: _____
Projected close-out date: _____
Amount of CDBG funds remaining: _____
Percent of construction complete: _____
Percent of admin. paperwork complete: _____
Previous monitoring date: _____
Date findings due: _____
Date findings resolved: _____
Type of acquisition involved: _____
Source of acquisition funding: _____
Acquisition timing around first public hearing: **Before** **After**

Elected Official: _____
Address: _____
_____
Phone #: _____

Administrator: _____
Address: _____
_____
Phone #: _____

Subrecipient: _____
Address: _____
_____
Phone #: _____

## National Objective

National Objective of the project (circle one): **LMI** **Slums and Blight** **Urgent Health & Safety Needs**

Percent of benefit shown on application (funding approval): _____

Benefit is: **Citywide** **Target Area** **Limited Clientele** **Housing Only** **Economic Development**

**LMI**

How was it determined (circle one):

**Local Income Survey** **U.S. Census Data** **Other (specify):** _____

If by random survey, is CDBG's approval included? **Yes** **No**

Actual tabulation of survey in field:
Total Persons: _____ # LMI: _____ % LMI: _____
Total Families: _____ _ # LMI: _____ % LMI: _____
In accordance with application? **Yes** **No**
If No, explain: _____

Did any change in the project scope affect a change in the beneficiaries? **Yes** **No**

If so, were new beneficiaries surveyed? **Yes** **No**

If so, is the national objective still being met? **Yes** **No**

**Slums and Blight**

Activity is identified as:

**Area** **Spot** **Infeasible to Rehab** **Chapter 353** **Local dangerous building code**

Project includes supporting documentation? **Yes** **No**

Spot slums and blight: All structures vacant for 12 months prior to demolition? **Yes** **No**

Are CDBG funds used to address deteriorated conditions? **Yes** **No**

**Urgent Health and Safety Needs**

Problem is identified as: _____
_____

COMMENTS: _____

**Citizen Participation**

Are grant records kept at grantee's office? **Yes** **No**

Is documentation of public hearing available in the grantee files? **Yes** **No**

Has the grantee conducted a public hearing on the status of funded activities? **Yes** **No**

When was the notice of the public hearing published or posted? _____

Where was the notice of public hearing published or posted?
Newspaper name or location: _____
Date: _____

When was the public hearing?
Date: _____
Time: _____
Location: _____

Are there minutes of the public hearing? **Yes** **No**
Is there an affidavit of publication on file? **Yes** **No**

Were all public hearings accessible to handicap (disabled) persons? **Yes** **No**

Did the grantee provide an interpreter for persons who requested one in order to participate in public hearings? **Yes** **No** **Not requested**

Have any criticisms or complaints been received in writing regarding the program? **Yes** **No**
If Yes, how were they handled? _____
_____

List any additional ways the grantee has <u>demonstrated</u> efforts to involve citizens throughout all stages of the project: _____
_____

Section 504 ADA/Accessibility and Disability Compliance

Has the grantee completed a self-evaluation of program access? **Yes** **No**
Does the grantee have 15 or more employees? **Yes** **No**
If Yes, has the grantee completed a Section 504 Accessibility Transition Plan based on the results of the self-evaluation? **Yes** **No**
Has the grantee designated a Section 504 Coordinator? **Yes** **No**
Provide name and title: _____
Has the grantee adopted a written grievance procedure to resolve complaints regarding Section 504 Accessibility? **Yes** **No**

COMMENTS: _____

## Property Management

Was any personal property purchased with CDBG funds? **Yes** **No**

If Yes, complete remaining questions.

Is CDBG funded, nonexpendable personal property identified with an inventory tag or other control? **Yes** **No**

If Yes, list tagged items: _____

_____

_____

If any real property was purchased, was it titled correctly to the owner (either the grantee or not-for-profit)? **Yes** **No**

If Yes, is the real property deed restricted to prevent resale for undue enrichment? **Yes** **No**

If Yes, is the deed restricted for twenty years? **Yes** **No**

COMMENTS: _____

_____

## Financial Management

### CASH

Does the grantee record all cash transactions in a consistent, centralized system? **Yes** **No**
Does the grantee use activity ledgers to track expenditures by activity? **Yes** **No**
Are RFFs based on either work completed and invoiced or projected cash needs? **Yes** **No**

### BANK STATEMENT RECONCILIATION

Are fund/activity balances reconciled to bank statements monthly? **Yes** **No**
Is the bank statement reconciliation documented? **Yes** **No**
Is the person reconciling monthly bank statements prohibited from signing checks? **Yes** **No**
Are two signatures required on all checks? **Yes** **No**
If No, is the person writing checks prohibited from signing them? **Yes** **No**
Is the person authorized to sign checks different from the person who signs RFFs? **Yes** **No**
Check a sample of canceled checks. Are all dates, payee, amounts, endorsements, and signatures proper? **Yes** **No**
Did the grantee spend all cash in excess of $1000 within the 3 days allowed? **Yes** **No**
Is the CDBG bank account non-interest bearing? **Yes** **No**
If No, was the interest returned to DED? **Yes** **No**

### MATCHING FUNDS

If the grantee was required to use matching funds, is there a record of all matching Funds used, including supporting documentation? **Yes** **No**

Documentation:

| | Funding Approval | Amount |
|---|---|---|
| Cash match | _____ | _____ |
| In-kind match | _____ | _____ |
| Other | _____ | _____ |
| Private match | _____ | _____ |

Did the grantee expend the amount of matching funds pledged in the application (FA)? **Yes** **No**
Is there any evidence of CDBG funds used to reimburse local funds for non-exempt activities expended prior to the environmental release of CDBG funds? **Yes** **No**
Is there any evidence of CDBG funds used to reimburse local funds expended prior to the grant award date? **Yes** **No**
If Downtown Revitalization, is there a dollar-for-dollar match of eligible private investment funds? **Yes** **No**

### AUDIT TRAIL

Are all accounting transactions supported by invoice? **Yes** **No**
Are invoices properly referenced with check numbers, dates, RFF numbers, funding sources, and amounts paid? **Yes** **No**
Are all expenses allowable per grant agreement? **Yes** **No**
For in-kind or local labor, are payrolls supported by time sheets? **Yes** **No**
Have all Single Audits required from 12 months prior been submitted to and verified by the Federal Audit Clearinghouse? **Yes** **No**

### PROGRAM INCOME

If earned, was program income disclosed in financial records? **Yes** **No** **N/A**
Was program income used for eligible activities? **Yes** **No** **N/A**
Was the eligible expenditure of program income approved by DED prior to use? **Yes** **No** **N/A**
Are all reports on program income current with DED requirements? **Yes** **No** **N/A**

| | | | |
|---|---|---|---|
| Is there an Environmental Review Record (ERR) containing all original documents available for public review at the grantee's address? | | **Yes** | **No** |
| Does the ERR contain the originally-signed 'Determination of Level of Environmental Review' form? | | **Yes** | **No** |
| Does the ERR contain the originally-signed 'Finding of Exemption' form? | | **Yes** | **No** |
| If the project is Categorically Excluded <u>not Subject to</u> laws and authorities at 58.5 (CENST), does the ERR contain the originally-signed 'Categorically Excluded Not Subject To' form? | **Yes** | **No** | **N/A** |
| If the project is Categorically Excluded <u>Subject to</u> laws and authorities at 58.5 (CEST), Does the ERR contain the originally-signed Statutory Checklist and all supporting Documentation? | **Yes** | **No** | **N/A** |
| Did the project convert to Exempt? | **Yes** | **No** | **N/A** |
| If No, does the ERR contain the 'Notice of Intent to Request Release of Funds' public notice? | **Yes** | **No** | **N/A** |
| Does the ERR contain the affidavit of publication and/or tear sheet? | **Yes** | **No** | **N/A** |
| If the project required an Environmental Assessment (EA), does the ERR contain the originally-signed EA and all supporting documentation? | **Yes** | **No** | **N/A** |
| Does the ERR contain the 'Combined Notice' (Notice of Intent to Request Release of Funds and Finding of No Significant Impact)? | **Yes** | **No** | **N/A** |
| Does the ERR contain the affidavit of publication and/or tear sheet? | **Yes** | **No** | **N/A** |
| Does the ERR contain proof of distribution to environmental agencies and Tribes, if applicable? (certified mail receipts and/or cover letters & stamped envelopes) | **Yes** | **No** | **N/A** |
| Did the project require completion of HUD's 8-Step Decision Making Process for Floodplains and/or Wetland? | **Yes** | **No** | **N/A** |
| If Yes, does the ERR contain the following items: | | | |
| <u>Early Public Notice:</u> | | | |
| Copy of the Early Public Notice, affidavit of publication and/or tear sheet, proof of distribution of the notice to environmental agencies and Tribes, if applicable | | **Yes** | **No** |
| Written comments from the public and RE written responses | **Yes** | **No** | **N/A** |
| <u>Notice of Explanation:</u> | | | |
| Copy of the Notice of Explanation, affidavit of publication and/or tear sheet, proof of distribution of the notice to environmental agencies and Tribes, if applicable | | **Yes** | **No** |
| Written comments from the public and RE written responses | **Yes** | **No** | **N/A** |
| Does the ERR contain the originally-signed Request for Release of Funds and Certification Form HUD-7015.16 (RROF/C)? | **Yes** | **No** | **N/A** |
| Does the ERR contain one of the following originally-signed release of funds formats? | **Yes** | **No** | **N/A** |

Pre-Grant Award Environmental Approval Letter **Yes** **No**

If Yes, Date: _____

Authority to Use Grant Funds form **Yes** **No**

If Yes, Date: _____

Is there any evidence that funds from any source were expended (except for Exempt or CENST activities) and/or choice limiting actions undertaken by any source (acquisition including easements, site preparation, excavation, new construction, rehabilitations/ renovations, demolition) prior to the date of DED's release of funds? **Yes** **No** **N/A**

Were conditions for approval and/or mitigation measures required as a condition of DED's release of funds? **Yes** **No** **N/A**

If Yes, does the documentation exist as evidence that each condition was successfully implemented and/or approved by authorizing agencies and/or Tribes? **Yes** **No**

If No, explain why and provide the RE's timeframe and plan for completing and documenting conditions for approval: _____
_____
_____
_____
_____

Does the ERR include all environmental review amendments completed during the project and DED's approval of all amendments? **Yes** **No** **N/A**

Did the project require a tiered review approach? **Yes** **No**

If Yes, does the ERR contain all Tier II Reviews and DED approval of each review? **Yes** **No**

Does this monitoring indicate any need for follow-up monitoring or technical assistance by DED's Environmental Officer? **Yes** **No**

Based on review of the ERR, is the RE in compliance with HUD's 24 CFR Part 58 regulation and DED's environmental review requirements and processes? **Yes** **No**

If No, explain: _____
_____
_____
_____

COMMENTS: _____

## Equal Opportunity/Fair Housing

CDBG Employment by Grantee:

Were any persons employed by the grantee specifically for the project? **Yes** **No** **N/A**

If Yes, specify: _____

_____

Did the grantee include equal opportunity guidelines in their advertising for positions paid for with the grantee's CDBG funds? **Yes** **No** **N/A**

Limited English Proficiency Compliance: If required, were translator services available? **Yes** **No** **N/A**

If ethnic population in project service area was 5% or greater, was information in the ethnic group's language published and provided to those project beneficiaries? **Yes** **No** **N/A**

Annual Official Actions to Affirmatively Further FAIR HOUSING:

List the actions the grantee has taken to affirmatively further Fair Housing. The grantee must conduct one action each year (12 month period) of the project, beginning with the grant award date.

1)_____

2)_____

3)_____

Annual Official Actions to Address Impediments to Fair Housing Choice:

Are the grantee's official actions to affirmatively further Fair Housing current? **Yes** **No** **N/A**

List the actions the grantee has taken to address identified Impediments to Fair Housing Choice. The grantee must conduct one action each year (12 month period) of the project, beginning with the grant award date.

1)_____

2)_____

3)_____

Are the actions to address Impediments to Fair Housing Choice current? **Yes** **No** **N/A**

MBE/WBE/DBE-Section 3 Procurement Direct Solicitation Lists:

Was above list provided for all procurement activities? **Yes** **No** **N/A**

Were MBE/WBE/DBE-Section 3 firms solicited for construction activities? **Yes** **No** **N/A**

Were MBE/WBE/DBE-Section 3 firms solicited for the following professional service activities?

| | | | |
|---|---|---|---|
| Engineering Firms | **Yes** | **No** | **N/A** |
| Architectural Firms | **Yes** | **No** | **N/A** |
| Grant Administration | **Yes** | **No** | **N/A** |
| Appraisers | **Yes** | **No** | **N/A** |
| Review Appraisers | **Yes** | **No** | **N/A** |
| Titles Services | **Yes** | **No** | **N/A** |
| Other Professional Services | **Yes** | **No** | **N/A** |

Section 504 CDBG Program Accessibility/Disability Compliance:

1. Has grantee completed Part I of Section 504 /ADA Accessibility Disability Self-Evaluation form? **Yes** **No** **N/A**
2. Has grantee completed Part II of Section 504 Self-Evaluation for where grantee has at least 15 or more employees? **Yes** **No** **N/A**
3. If 15 or more employees, does grantee have a disability grievance procedure? **Yes** **No** **N/A**
4. If applicable, did grantee complete Section 504 Transition Plan? **Yes** **No** **N/A**

LGBTQ Equal Access Rule to HUD Funded Programs:

Where any complaints received from LGBTQ persons who applied for or were served by the grantee's CDBG funded project? **Yes** **No** **N/A**

If complaints were received, how were the complaints resolved?

_____
_____
_____

CSAR Report: Is grantee current with (each Federal fiscal year October 1-Sept.30 since grant was awarded) Submissions of annual Contractor and Subcontractor Activity Report (CSAR)? **Yes** **No**

Section 3 Report: Is grantee current with annual Section 3 Summary Report submissions? **Yes** **No**

COMPLAINTS:

| | | | |
|---|---|---|---|
| Have any *written* equal opportunity/civil rights complaints been received? | **Yes** | **No** | **N/A** |
| Were the complaints handled appropriately? | **Yes** | **No** | **N/A** |
| Should the Missouri Human Rights Commission or HUD be contacted? | **Yes** | **No** | **N/A** |

COMMENTS: _____

**Procurement**

GENERAL REQUIREMENTS

| | | | |
|---|---|---|---|
| Does the grantee have a written procurement policy? | **Yes** | **No** | **N/A** |
| Date adopted: _____ | | | |
| Does the grantee have a written conflict of interest policy? | **Yes** | **No** | **N/A** |
| Date adopted: _____ | | | |
| Whose procurement policy was used in this project? _____ | | | |
| Was it implemented correctly? | **Yes** | **No** | **N/A** |

| PROFESSIONAL SERVICES | Administration | | Engineering | | Other | |
|---|---|---|---|---|---|---|
| Did the grantee correctly prepare an RFP for administrators/professional service providers and RFQ for engineers/architects? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Did the RFP/RFQ identify the appropriate evaluation factors? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Was the RFP/RFQ published in the newspaper of widest circulation in the county? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Was the solicitation of the RFP/RFQ adequate? (all firms on the CDBG administrator list contacted?) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Was the RFP/RFQ published in a minority newspaper? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| If No, were an adequate number of MBE/WBE firms directly solicited? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Does the grantee have minutes of contract award? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| If not award to the lowest bidder, are selection criteria available? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Were unsuccessful bidders notified in writing? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Did the grantee receive approval if less than three bids/ proposals were received? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |

CONSTRUCTION

| | | | |
|---|---|---|---|
| Did the grantee use competitive sealed bids (contracts over $25,000)? | **Yes** | **No** | **N/A** |
| Did the advertisement require a bid bond, cashier's check, or other acceptable method for 5% of the bid? | **Yes** | **No** | **N/A** |
| Did the advertisement contain language relating to labor provisions, state & Federal prevailing wage certifications, bonding, Section 3, and equal employment opportunity (EEO)? | **Yes** | **No** | **N/A** |

Were descriptions of items/services on the invitation to bid clear and without reference

| | | | |
|---|---|---|---|
| to specific brand requirements unless the brand was used as an example of functional or quality requirements? | **Yes** | **No** | **N/A** |
| Were bids advertised in the newspaper of widest circulation? | **Yes** | **No** | **N/A** |
| Were an adequate number of MBE/WBE/Section 3 firms directly solicited? | **Yes** | **No** | **N/A** |
| Was the Federal wage decision verified prior to opening bids? | **Yes** | **No** | **N/A** |
| Was a public meeting held to open bids and minutes in the file? | **Yes** | **No** | **N/A** |
| Were fewer than three bids received for any contract? | **Yes** | **No** | **N/A** |
| If Yes, did the grantee receive approval prior to awarding contract? | **Yes** | **No** | **N/A** |
| Was the contract awarded to the lowest responsible bidder? | **Yes** | **No** | **N/A** |

If No, explain: _____
_____

| | | | |
|---|---|---|---|
| Does the grantee have minutes of contract award? | **Yes** | **No** | **N/A** |
| Were unsuccessful bidders notified in writing? | **Yes** | **No** | **N/A** |

<u>SMALL PURCHASES (less than $25,000)</u>

| | | | |
|---|---|---|---|
| Is there documentation of venders, price quotations, and dates? (telephone bids, faxed Bids, emails)? | **Yes** | **No** | **N/A** |
| Did the list of vendors include: | | | |
| MBE/WBE firms? | **Yes** | **No** | **N/A** |
| Section 3 firms? | **Yes** | **No** | **N/A** |
| Was selection purchased fairly? | **Yes** | **No** | **N/A** |
| Was a purchase order/contract issued to the most advantageous vender? | **Yes** | **No** | **N/A** |

<u>NONCOMPETITIVE PROPOSALS (Must be pre-approved by DED)</u>

| | | | |
|---|---|---|---|
| Was the desired item available from only one source? | **Yes** | **No** | **N/A** |
| If No, were costs eligible? | **Yes** | **No** | **N/A** |
| Did the grantee receive authorization for noncompetitive negotiation? | **Yes** | **No** | **N/A** |
| Was competition determined to be inadequate after soliciting all known sources? | **Yes** | **No** | **N/A** |
| Were the goods or services needed immediately to meet a public emergency? | **Yes** | **No** | **N/A** |

COMMENTS: _____

## Contract Management (Administration)

Did the grantee contract for administrative services? **Yes** **No**
- Who is the contract with? _____
- What is the executed date of the contract? _____
  - Does this date precede the award date? **Yes** **No**
    - If Yes, is there a contingency clause? **Yes** **No**
- Does the contract amount exceed the funding approval line item? **Yes** **No**
  - Contract amount: _____
  - Is the contract lump sum? **Yes** **No**

Does the contract include all required language?

| | | |
|---|---|---|
| Affirmative action plan for professional services | **Yes** | **No** |
| Affidavit (E-Verify) | **Yes** | **No** |
| Title VI, Civil Rights Act of 1964 | **Yes** | **No** |
| Section 3 (only over $100,000) | **Yes** | **No** |
| Section 109 | **Yes** | **No** |
| Section 503 | **Yes** | **No** |
| Section 504 | **Yes** | **No** |
| Age Discrimination Act of 1975 | **Yes** | **No** |
| Executive Order 11246 (only over $10,000) | **Yes** | **No** |
| Anti-Lobbying (only over $100,000) | **Yes** | **No** |
| Termination clause (only over $10,000) | **Yes** | **No** |

## Contract Management (Engineering/Architectural)

Did the grantee contract for engineering/architectural services? **Yes** **No**
- Who is the contract with? _____
- What is the executed date of the contract? _____
  - Does this date precede the award date? **Yes** **No**
    - If Yes, is there a contingency clause? **Yes** **No**
- Does the contract amount exceed the funding approval line item? **Yes** **No**
  - Contract amount: _____
  - Is the contract lump sum? **Yes** **No**

Does the contract include all required language?

| | | |
|---|---|---|
| Affirmative action plan for professional services | **Yes** | **No** |
| Affidavit (E-Verify) | **Yes** | **No** |
| Title VI, Civil Rights Act of 1964 | **Yes** | **No** |
| Section 3 (only over $100,000) | **Yes** | **No** |
| Section 109 | **Yes** | **No** |
| Section 503 | **Yes** | **No** |
| Section 504 | **Yes** | **No** |
| Age Discrimination Act of 1975 | **Yes** | **No** |
| Executive Order 11246 (only over $10,000) | **Yes** | **No** |
| Anti-Lobbying (only over $100,000) | **Yes** | **No** |
| Does the contract provide optional services at an additional cost? | **Yes** | **No** |
| Termination clause (only over $10,000) | **Yes** | **No** |

**Contract Management (Other Professional Services)**

Did the grantee contract for other professional services? **Yes** **No**
What is the service? _____
Who is the contract with? _____
What is the executed date of the contract? _____
Does this date precede the award date? **Yes** **No**
If Yes, is there a contingency clause? **Yes** **No**
Does the contract amount exceed the funding approval line item? **Yes** **No**
Contract amount: _____
Is the contract lump sum? **Yes** **No**

Does the contract include all required language?
Affirmative action plan for professional services **Yes** **No**
Affidavit (E-Verify) **Yes** **No**
Title VI, Civil Rights Act of 1964 **Yes** **No**
Section 3 (only over $100,000) **Yes** **No**
Section 109 **Yes** **No**
Section 503 **Yes** **No**
Section 504 **Yes** **No**
Age Discrimination Act of 1975 **Yes** **No**
Executive Order 11246 (only over $10,000) **Yes** **No**
Anti-Lobbying (only over $100,000) **Yes** **No**
Termination clause (only over $10,000) **Yes** **No**

COMMENTS: _____
_____

**Contract Management (Construction)**

| | | |
|---|---|---|
| Did the grantee contract for this service? | **Yes** | **No** |
| Who is the contract with? _____ | | |
| What is the executed date of the contract? _____ | | |
| Does the contract amount exceed the funding approval line item? | **Yes** | **No** |
| Contract amount: _____ | | |
| Is the contract lump sum? | **Yes** | **No** |
| Were there any change orders? | **Yes** | **No** |
| Were the change orders approved by the grantee? | **Yes** | **No** |
| Were all the change orders submitted to CDBG? | **Yes** | **No** |
| Does the contract include? | | |
| Certification of Bidder Equal Employment Opportunity | **Yes** | **No** |
| Certification of Proposed Subcontractor Equal Employment Opportunity | **Yes** | **No** |
| Relevant State prevailing wage determination | **Yes** | **No** |
| Relevant Federal prevailing wage determination | **Yes** | **No** |
| General Conditions (*CDBG or equivalent*) | **Yes** | **No** |
| **HUD Supplemental Conditions contain:** | | |
| ***Executive Order 11246 | **Yes** | **No** |
| *Affirmative action goals | **Yes** | **No** |
| *Section 3 | **Yes** | **No** |
| **Summary of Civil Rights Laws, Executive Orders and Regulation contain:** | | |
| *Title VI, Civil Rights Act of 1964 | **Yes** | **No** |
| ***Title VIII, Civil Rights Act of 1968 | **Yes** | **No** |
| *Section 109 | **Yes** | **No** |
| *Section 503 | **Yes** | **No** |
| *Section 504 | **Yes** | **No** |
| *Age Discrimination Act of 1975 | **Yes** | **No** |
| *Executive Order 11063 | **Yes** | **No** |
| Anti-Lobbying (only over $100,000) | **Yes** | **No** |
| Federal Labor Standards Provision | **Yes** | **No** |
| Section 3 Plan Format (*If applicable*) | **Yes** | **No** |
| Section 3 Contractor Tables (A, B, C, D) (*If applicable*) | **Yes** | **No** |
| Have Tables C & D been updated? (*If applicable*) | **Yes** | **No** |
| Certificate of Contemplated MBE, WBE & Section 3 Business (*If applicable*) | **Yes** | **No** |
| Termination clause | **Yes** | **No** |
| Affidavit (E-Verify) | **Yes** | **No** |
| Architect or Engineer Certification for Acceptance and Final Payment | **Yes** | **No** |
| Do the grantee construction records include the following (in compliance with CDBG limits): | | |
| Bid guarantees? | **Yes** | **No** |
| Performance bond? | **Yes** | **No** |
| Payment bond? | **Yes** | **No** |

COMMENTS: _____

**Labor Standards**

**GENERAL**

| | | | |
|---|---|---|---|
| Are Federal and State wage decisions correct as shown in the contract(s)? | **Yes** | **No** | **N/A** |
| Are all contractors and subcontractors licensed to do business in Missouri, registered with the Secretary of State's office (unless a sole proprietorship with Non-fictitious name), and not appearing on any applicable Federal and State debarred lists? | **Yes** | **No** | **N/A** |
| Is the contractor Surety verification clearance letter in the file? | **Yes** | **No** | **N/A** |
| Is the CDBG Start of Construction Notice on file? | **Yes** | **No** | **N/A** |
| Is the Pre-Construction Conference Report on file? | **Yes** | **No** | **N/A** |
| Is there documentation of a bulletin board in a central location at the worksite where EEO provisions, wage determinations, health and safety regulations, Dept. of Labor wage notices, and the bilingual EEO notice are posted? | **Yes** | **No** | **N/A** |

**PAYROLL REVIEW**

| | | | |
|---|---|---|---|
| Was the first payroll and payroll review sheet submitted to DED for each contractor and subcontractor? | **Yes** | **No** | **N/A** |
| Recommended but can be required at the field rep's discretion, **payroll *review sheets sent in for corresponding RFFs?*** | **Yes** | **No** | **N/A** |
| Were all **original payrolls** documented as submitted weekly to the grantee? | **Yes** | **No** | **N/A** |
| Are statements of compliance signed by owner or officer of the company? | **Yes** | **No** | **N/A** |
| If no, was a Payroll Authorization Letter on file? | **Yes** | **No** | **N/A** |
| Was a statement of compliance submitted with each payroll? | **Yes** | **No** | **N/A** |
| Is the employer IRS identification number on record? | **Yes** | **No** | **N/A** |
| Do the payrolls contain the following for each employee: | | | |
| *Name and specific four-digit identifying number*? | **Yes** | **No** | **N/A** |
| *Work classification*? | **Yes** | **No** | **N/A** |
| *Hourly rates of wages paid*? | **Yes** | **No** | **N/A** |
| *Daily number of hours worked (including any overtime)*? | **Yes** | **No** | **N/A** |
| *Weekly number of hours worked (including any overtime)*? | **Yes** | **No** | **N/A** |
| *Explanation of other deductions (when applicable)*? | **Yes** | **No** | **N/A** |
| *Is there documentation of employee and employer agreement on file*? | **Yes** | **No** | **N/A** |
| *Gross and net wages paid*? | **Yes** | **No** | **N/A** |
| Do wages shown on payrolls equal or exceed the rates in the wage decisions? | **Yes** | **No** | **N/A** |
| If split work classifications were used, are separate daily time records shown? | **Yes** | **No** | **N/A** |
| If fringe benefits were paid into approved plans/funds/programs, has the hourly equivalent amount been documented? | **Yes** | **No** | **N/A** |
| Were additional classifications (if necessary) obtained from USDOL? | **Yes** | **No** | **N/A** |
| Has the grantee documented review and approval of payrolls? | **Yes** | **No** | **N/A** |
| Has overtime been correctly paid? | **Yes** | **No** | **N/A** |

**EMPLOYEE INTERVIEWS**

Identify all contractor(s) and subcontractor(s), with number of employee interviews conducted: _____

_____

_____

| | | | |
|---|---|---|---|
| Were a representative number of trades covered for each firm? | **Yes** | **No** | **N/A** |
| Were interviews compared against payrolls for compliance? | **Yes** | **No** | **N/A** |
| Were interviews compared against wage rates for compliance? | **Yes** | **No** | **N/A** |
| Were interviews signed by the interviewer and verified by the payroll examiner (Labor standards officer)? | **Yes** | **No** | **N/A** |

# Certified Payroll Review Checklist

Community Development Block Grant Program

| | |
|---|---|
| Prime/Subcontractor Reviewed: | |
| Project Number: | Payroll Number Reviewed: |
| Federal Wage Order: | State Wage rate: |

**Instructions:** This signed checklist is to be submitted with corresponding "Request for Funds Form" (RFF) before RFF's can be processed and approved.

**Payroll Information Checklist**

| YES | N/A | |
|---|---|---|
| ☐ | ☐ | Contractor's name and address with the prime or subcontractor(s) identified. |
| ☐ | ☐ | Payroll number, week ending, and project location. |
| ☐ | ☐ | Employee full name and four-digit identification number. |
| ☐ | ☐ | Employee's full work classification, including group or class |
| ☐ | ☐ | Identification of apprentices and program levels (%) on payrolls |
| ☐ | ☐ | Daily and weekly employee hours worked in each applicable work classification |
| ☐ | ☐ | Daily and weekly employee overtime hours worked in each applicable work classification |
| ☐ | ☐ | Base rate shown for each employee classification, overtime rate shown when worked per classification. |
| ☐ | ☐ | Week's Gross amount earned. |
| ☐ | ☐ | Weeks itemized deductions with explanation of itemized deductions if needed. |
| ☐ | ☐ | Week's Net wages paid. |
| ☐ | ☐ | Compliance statement attached. |
| ☐ | ☐ | Method of fringe benefit payment described by checking either box (4)(a) or (4)(b) Exceptions explanation for fringe benefit (4)(c) |
| ☐ | ☐ | Fringe benefit package information in file and updated as needed Identification |
| ☐ | ☐ | of OJTs, apprentices and program levels (%) on payrolls Statement of compliance |
| ☐ | ☐ | has original signature of owner or authorized person. |

**Compliance Review Checklist**

| Yes | N/A | |
|---|---|---|
| ☐ | ☐ | Verify work classifications reported are consistent with the work performed |
| ☐ | ☐ | Verify correct wage rates are being paid (Federal vs. State requirements) |
| ☐ | ☐ | Verify overtime is being paid correctly (Federal vs. State requirements) |
| ☐ | ☐ | Verify that Apprentice Program documentation is in project files |
| ☐ | ☐ | Compare payrolls with wage rate interviews |

| | |
|---|---|
| Reviewed By: | Date: |

I hereby attest that the above referenced payroll review has been performed in accordance with the current CDBG Administrative Manual guidelines. When applicable, all discrepancies have been brought to the attention of the Prime Contractor and a corresponding CDBG "Employee Restitution Checklist" has been attached.

**Certified Payroll Review Sheet**

Project: State Wage Order:

Company Name: Federal Wage Order:

**Straight Line Compliance**

| Pay No. | Name | Craft or Classification | Rate Paid | | | State Rate | | | Federal Rate | | | App |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Basic | Fringe | Total | Basic | Fringe | Total | Basic | Fringe | Total | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
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**Overtime Compliance**

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | |
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| | | | | | | | | | | | | |

Notes: Reviewers Name: _____ Signature:_____

**CDBG EMPLOYEE RESTITUTION CHECKLIST**

**CDBG Project #** _____ **Grantee Name**_____

**Applicable State Wage Rates #**_____ **Applicable Federal Wage Rates #**_____

**Name of Contractor** _____

**Date of Payroll with wage error** _____

**Reason for Error:**

- ☐ Wrong hourly amount
- ☐ Wrong classification
- ☐ Wrong wage rate
  - o Used amount from federal, should have been state
  - o Used amount from state, should have been federal
  - o Used wrong wage publication

| Name of Employee | Job Classification | Wage Amount Paid | Correct Wage Amount | Amount of Difference | # hours worked in period | Amount Due | Amount of Restitution |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

**Date of Notification to Contractor**_____ **Date of Restitution Made**_____

**ATTACH THE FOLLOWING DOCUMENTS TO THIS COMPLETED FORM:**

- ☐ Copy of Certified Payroll in error
- ☐ Copy of corrected Certified Payroll
- ☐ Copy of the notification to contractor
- ☐ Copy of correct wage rates, if applicable

**Acquisition**

What type of acquisition was required?

| | | |
|---|---|---|
| Full Title | **Yes** | **No** |
| Permanent Easement | **Yes** | **No** |
| Long Term Lease | **Yes** | **No** |
| Right of Way | **Yes** | **No** |
| Temporary Easement (if checked, not subject to Uniform Act) | **Yes** | **No** |
| Acquired from another public entity (if checked, not subject to Uniform Act) | **Yes** | **No** |

Is there a separate file for each necessary acquisition? **Yes** **No**

Property Owner's Name: _____

Proof of ownership* Prelim-Acquisition Letter & HUD Brochure** Waiver of Right to Just Compensation

Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

Property Owner's Name: _____

Proof of ownership* Prelim-Acquisition Letter & HUD Brochure** Waiver of Right to Just Compensation

Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

Property Owner's Name: _____

Proof of ownership* Prelim-Acquisition Letter & HUD Brochure** Waiver of Right to Just Compensation

Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

Property Owner's Name: _____

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Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

Property Owner's Name: _____

Proof of ownership* Prelim-Acquisition Letter & HUD Brochure** Waiver of Right to Just Compensation

Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

Property Owner's Name: _____

Proof of ownership* Prelim-Acquisition Letter & HUD Brochure** Waiver of Right to Just Compensation

Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

Property Owner's Name: _____

Proof of ownership* Prelim-Acquisition Letter & HUD Brochure** Waiver of Right to Just Compensation

Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

Property Owner's Name: _____

Proof of ownership* Prelim-Acquisition Letter & HUD Brochure** Waiver of Right to Just Compensation

Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

Property Owner's Name: _____

Proof of ownership* Prelim-Acquisition Letter & HUD Brochure** Waiver of Right to Just Compensation

Waiver of Right to an Appraisal Copy of appraisal*** Copy of Review appraisal

Review of available market data**** Written offer to purchase** Proof of receipt of payment*****

Recorded acquisition instrument******

*Title or Deed
**Hand delivered or certified mail
***If appraisal is not waived and property value above $10,001
****Recent sales data, court awards, etc.-if value of property valued at $10,000 or less
*****Copy of the check to owner, if not donated
******Deed, permanent easement, temporary easement if applicable, long term lease, or right-of-way

Were all incidental costs related to the acquisition and transfer of title from the property owner paid by the grantee (e.g., recording fees, boundary surveys, legal descriptions, mortgage penalties, transfer fees, pro-rated share of prepaid taxes, litigation expense, etc.)? **Yes** **No**

Was any grant funds used to clear the title? (no grant funds may be used to perfect a title) **Yes** **No**

If condemnation was required, does the judgment equal the amount paid? **Yes** **No**

COMMENTS: _____

## COMMERCIAL STRUCTURES & RESIDENTIAL-ONLY DEMOLITIONS

| **PROFESSIONAL SERVICES PROCUREMENT** | Demolition Inspector | | Asbestos Inspector | | Other | |
|---|---|---|---|---|---|---|
| Did the grantee correctly prepare an RFP for demolition inspector and **licensed** asbestos inspector services? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Did the RFP identify the appropriate evaluation factors? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Was the RFP published in the newspaper of widest circulation? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Was the solicitation of the RFP adequate? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| If No, were an adequate number of MBE/WBE firms directly solicited? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Does the grantee have minutes of contract award? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| If not awarded to lowest bidder, are selection criteria available? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Were unsuccessful bidders notified in writing? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Did the grantee receive approval if less than three bids/ proposals were received? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |

**DEMOLITION INSPECTOR CONTRACT**

| | | |
|---|---|---|
| Did the grantee contract for other professional services? | **Yes** | **No** |
| Who is the contract with? _____ | | |
| What is the executed date of the contract? _____ | | |
| Does this date precede the award date? | **Yes** | **No** |
| If Yes, is there a contingency clause? | **Yes** | **No** |
| Does the contract amount exceed the funding approval line item? | **Yes** | **No** |
| Contract amount: _____ | | |
| Is the contract lump sum? | **Yes** | **No** |

Does the contract include all required language?

| | | |
|---|---|---|
| Executive Order 11246 (only over $10,000) | **Yes** | **No** |
| Title VI, Civil Rights Act of 1964 | **Yes** | **No** |
| Section 109 | **Yes** | **No** |
| Section 3 (only over $100,000) | **Yes** | **No** |
| Section 503 | **Yes** | **No** |
| Affirmative action for Handicapped Workers | **Yes** | **No** |
| Section 504 | **Yes** | **No** |
| Age Discrimination Act of 1975 | **Yes** | **No** |
| Anti-Lobbying (only over $100,000) | **Yes** | **No** |
| Affidavit (E-Verify) | **Yes** | **No** |
| Termination clause (only over $10,000) | **Yes** | **No** |

COMMENTS: _____

**ASBESTOS INSPECTOR CONTRACT**

| | | |
|---|---|---|
| Did the grantee contract for other professional services? | **Yes** | **No** |
| Who is the contract with? _____ | | |
| What is the executed date of the contract? _____ | | |
| Does this date precede the award date? | **Yes** | **No** |
| If Yes, is there a contingency clause? | **Yes** | **No** |
| Does the contract amount exceed the funding approval line item? | **Yes** | **No** |
| Contract amount: _____ | | |
| Is the contract lump sum? | **Yes** | **No** |

Does the contract include all required language?

| | | |
|---|---|---|
| Executive Order 11246 (only over $10,000) | **Yes** | **No** |
| Title VI, Civil Rights Act of 1964 | **Yes** | **No** |
| Section 109 | **Yes** | **No** |
| Section 3 (only over $100,000) | **Yes** | **No** |
| Section 503 | **Yes** | **No** |
| Affirmative action for Handicapped Workers | **Yes** | **No** |
| Section 504 | **Yes** | **No** |
| Age Discrimination Act of 1975 | **Yes** | **No** |
| Anti-Lobbying (only over $100,000) | **Yes** | **No** |
| Affidavit (E-Verify) | **Yes** | **No** |
| Termination clause (only over $10,000) | **Yes** | **No** |

COMMENTS: _____

**DEMOLITION CONTRACTOR PROCUREMENT**

| | | | |
|---|---|---|---|
| Did the grantee use competitive sealed bids? (*contracts over $25,000*) | **Yes** | **No** | **N/A** |
| Did the advertisement require a bid bond, cashier's check, or other acceptable method for 5% of the bid? | **Yes** | **No** | **N/A** |
| Did the advertisement contain language relating to certifications, bonding, Section 3, and equal employment opportunity (EEO)? | **Yes** | **No** | **N/A** |
| Were descriptions of services on the invitation to bid clear? | **Yes** | **No** | **N/A** |
| Were bids advertised in the newspaper of widest circulation? | **Yes** | **No** | **N/A** |
| Were bids advertised in a minority newspaper? | **Yes** | **No** | **N/A** |
| If No, were an adequate number of MBE/WBE/Section 3 firms directly solicited? | **Yes** | **No** | **N/A** |
| **If applicable,** was the Federal wage decision verified prior to opening bids? | **Yes** | **No** | **N/A** |
| Was a public meeting held to open bids and minutes in the file? | **Yes** | **No** | **N/A** |
| Were fewer than three bids received for any contract? | **Yes** | **No** | **N/A** |
| If Yes, did the grantee receive approval prior to awarding contract? | **Yes** | **No** | **N/A** |

Was the contract award to the lowest responsible bidder? **Yes** **No** **N/A**

If No, explain: _____

_____

Does the grantee have minutes of contract award? **Yes** **No** **N/A**

Were unsuccessful bidders notified in writing? **Yes** **No** **N/A**

**DEMOLTION CONTRACTOR CONTRACT**

Did the grantee contract for this service? **Yes** **No**

Who is the contract with? _____

What is the award date of the contract? _____

Does the contract amount exceed the funding approval line item? **Yes** **No**

Contract amount: _____

Is the contract lump sum? **Yes** **No**

| | | | | | | |
|---|---|---|---|---|---|---|
| Were there any change orders? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Were the change orders approved by the grantee? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Specifically, does the construction contract include: | | | | | | |
| A copy of the bid bond, irrevocable letter of credit, or other acceptable instrument? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| If an irrevocable letter of credit from a FDIC bank, was issued in place of a performance bond, does the irrevocable status and dates cover the life of the project? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Performance bond (only over $25,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Payment bond (only over $50,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Federal Labor Standards Provisions (if applicable) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Relevant Federal Prevailing wage determination (if applicable) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Anti-Lobbying Certification (only over $100,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| HUD Supplemental Conditions, containing at least: | | | | | | |
| Executive Order 11246 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Affirmative Action | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Summary of Civil Rights, Laws, Executive Orders, and Regulations containing at least: | | | | | | |
| Title VI, Civil Rights of 1964 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Title VIII, Civil Rights of 1968 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Section 109 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Section 3 (only over $100,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Section 503 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Section 504 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Age Discrimination Act of 1975 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Executive Order 11063 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Termination clause (only over $10,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Affidavit (E-Verify) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |

**ASBESTOS ABATEMENT CONTRACTOR PROCUREMENT** (*contracts over $25,000*)

Did the grantee use competitive sealed bids? **Yes** **No** **N/A**

Did the advertisement require a bid bond, cashier's check, or other acceptable method for 5% of the bid? (require copy of license?) **Yes** **No** **N/A**

Did the advertisement contain language relating to certifications, bonding, Section 3, and equal employment opportunity (EEO)? **Yes** **No** **N/A**

Were descriptions of services on the invitation to bid clear? **Yes** **No** **N/A**

Were bids advertised in the newspaper of widest circulation? **Yes** **No** **N/A**

Were bids advertised in a minority newspaper? **Yes** **No** **N/A**
If No, were an adequate number of MBE/WBE/Section 3 firms directly solicited? **Yes** **No** **N/A**

**If applicable,** was the Federal wage decision verified prior to opening bids? **Yes** **No** **N/A**

Was a public meeting held to open bids and minutes in the file? **Yes** **No** **N/A**

Were fewer than three bids received for any contract? **Yes** **No** **N/A**
If Yes, did the grantee receive approval prior to awarding contract? **Yes** **No** **N/A**

Was the contract award to the lowest responsible bidder? **Yes** **No** **N/A**
If No, explain: _____
_____

Does the grantee have minutes of contract award? **Yes** **No** **N/A**

Were unsuccessful bidders notified in writing? **Yes** **No** **N/A**

**ASBESTOS ABATEMENT CONTRACTOR**

Did the grantee contract for this service? **Yes** **No**
Who is the contract with? _____
What is the executed date of the contract? _____
Does the contract amount exceed the funding approval line item? **Yes** **No**
Contract amount: _____
Is the contract lump sum? **Yes** **No**

| | | | | | | |
|---|---|---|---|---|---|---|
| Were there any change orders? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Were the change orders approved by the grantee? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |

Specifically, does the construction contract include:

| | | | | | | |
|---|---|---|---|---|---|---|
| A copy of the bid bond, irrevocable letter of credit, or other acceptable instrument? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |

If an irrevocable letter of credit from a FDIC bank, was issued in place of a performance bond, does the irrevocable

| | | | | | | |
|---|---|---|---|---|---|---|
| status and dates cover the life of the project? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Performance bond (over $25,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Payment bond (over $50,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Contractor EEO certification | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| HUD Supplemental Conditions, containing at least: | | | | | | |
| Executive Order 11246 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Affirmative Action | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Summary of Civil Rights, Laws, Executive Orders, and Regulations containing at least: | | | | | | |
| Title VI, Civil Rights of 1964 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Title VIII, Civil Rights of 1968 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Section 109 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Section 3 (only over $100,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Section 503 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Section 504 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Age Discrimination Act of 1975 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Executive Order 11063 | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Federal Labor Standards Provisions (if applicable) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Anti-Lobbying Certification (over $100,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Relevant Federal Prevailing wage determination | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Copy of Asbestos contractor license? | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Termination clause (only over $10,000) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |
| Affidavit (E-Verify) | **Yes** | **No** | **Yes** | **No** | **Yes** | **No** |

COMMENTS: _____

| Name of Owner | Proof of Ownership & Clear Title | Structure Vacant >12 Months | Signed Owner's Consent Form | Demolition Inspection Write-Up | Asbestos Inspection | DNR Asbestos Post Notification | Landfill Disposal Receipts | Certification of Completion |
|---|---|---|---|---|---|---|---|---|
| 1 | | | | | | | | |
| 2 | | | | | | | | |
| 3 | | | | | | | | |
| 4 | | | | | | | | |
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| 15 | | | | | | | | |
| 16 | | | | | | | | |
| 17 | | | | | | | | |
| 18 | | | | | | | | |
| 19 | | | | | | | | |
| 20 | | | | | | | | |

## Economic Development

GENERAL

Company(s) involved:

| Name | Jobs to be created/retained | Existing employees |
|---|---|---|
| _____ | _____ | _____ |
| _____ | _____ | _____ |

LMI company owners:

Name

_____

_____

Private investment release date: _____

Pledged private investment: _____

Amount of private investment documented: _____

Does this amount meet or exceed the pledged amount? **Yes** **No** **N/A**

Other contributions: _____

**ON-SITE REVIEW**

Number of pledged jobs created/retained: _____

If pledged job creation/retention goals have not been reached, explain why not and when this goal will be achieved: _____

Was payroll listing, including dates of hire, available and reviewed? **Yes** **No** **N/A**

Was payroll listing compared to Employment Status Statements? **Yes** **No** **N/A**

Is job documentation on file with the grantee? **Yes** **No** **N/A**

Breakdown of jobs and applicants:

| Name | Present Employment | New/Retained Jobs | Number Low/Mod Income | Number Low Income | Number Very Low Income |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |

| | Jobs | | Applicants | |
|---|---|---|---|---|
| | Total Direct Beneficiaries | Hispanic Direct Beneficiaries | Total Direct Beneficiaries | Hispanic Direct Beneficiaries |
| White: | | | | |
| Black/African American: | | | | |
| Asian: | | | | |
| American Indian/Alaskan Native: | | | | |
| Native Hawaiian/Other Pacific Islander: | | | | |
| American Indian/Alaskan Native & White: | | | | |
| Asian & White: | | | | |
| Black/African American & White: | | | | |
| Am. Indian/Alaskan Native & Black/African Am.: | | | | |
| Asian & Native Hawaiian/Other Pacific Islander: | | | | |
| All others: | | | | |
| **TOTAL:** | | | | |
| Female Head of Household: | | | | |
| Handicapped (Disabled): | | | | |
| Elderly: | | | | |

**Relocation**

GENERAL

| | | | |
|---|---|---|---|
| Is there a separate relocation file for each displacee? | **Yes** | **No** | **N/A** |

NOTICES

| | | | |
|---|---|---|---|
| Did the displacee receive the grantee's Notice of Eligibility for Relocation Assistance? | **Yes** | **No** | **N/A** |
| Hand delivered signed receipt? | **Yes** | **No** | **N/A** |
| Certified mail receipt? | **Yes** | **No** | **N/A** |
| Did the displacee receive the applicable HUD brochure? | **Yes** | **No** | **N/A** |
| If Yes, which brochure was received? | | | |
| "Relocation Assistance to Tenants Displaced from their Homes" | | **Yes** | **No** |
| "Relocation Assistance to Displaced Homeowners" | | **Yes** | **No** |
| "Relocation Assistance to Displace Business, Nonprofit Organizations, and Farms" | | **Yes** | **No** |
| Hand delivered signed receipt? | **Yes** | **No** | **N/A** |
| Certified mail receipt? | **Yes** | **No** | **N/A** |
| If applicable, did the displacee receive the 90-day Advance Notice to Move? | **Yes** | **No** | **N/A** |
| Hand delivered signed receipt? | **Yes** | **No** | **N/A** |
| Certified mail receipt? | **Yes** | **No** | **N/A** |

Date of Notice: _____

Date occupant require to move: _____

RENTAL AGREEMENTS

| | | | |
|---|---|---|---|
| If the grantee permitted an owner or tenant to occupy the real property acquired, was the rent charged equivalent to the fair rental value of the property? | **Yes** | **No** | **N/A** |
| Is there a short-term lease agreement in the file? | **Yes** | **No** | **N/A** |

DETERMINATION OF DISPLACEE NEEDS BY GRANTEE

| | | | |
|---|---|---|---|
| For Families and individuals, are the following claim forms in the file: | | | |
| Tenant Assistance or Downpayment Assistance? | **Yes** | **No** | **N/A** |
| Replacement Housing Payment for 180-Day Homeowners? | **Yes** | **No** | **N/A** |
| Moving and Related Expenses? (circle one) **Fixed** **Actual** | **Yes** | **No** | **N/A** |
| For businesses, nonprofit organizations, and farm operations, are the following claim forms in the file: | | | |
| Actual Reasonable Moving and Related Expenses? | **Yes** | **No** | **N/A** |
| Fixed Payment in Lieu of Payment for Actual Moving and Related Expenses? | **Yes** | **No** | **N/A** |

DONATION OF DISPLACEE PROPERTY

| | | | |
|---|---|---|---|
| Did the displacee donate their property in lieu of relocation payment? | **Yes** | **No** | **N/A** |
| If Yes, was a signed donation/waiver in the file? | **Yes** | **No** | **N/A** |
| Hand delivered signed receipt? | **Yes** | **No** | **N/A** |
| Certified mail receipt? | **Yes** | **No** | **N/A** |

PAYMENT DOCUMENTATION

| | | | |
|---|---|---|---|
| Is there payment documentation for (i.e., copy of canceled check): | | | |
| Relocation assistance? | **Yes** | **No** | **N/A** |
| Moving expenses? | **Yes** | **No** | **N/A** |

COMPARABLE REPLACEMENT UNIT DOCUMENTATION

| | | | |
|---|---|---|---|
| Is the "Selection of Most Representative Comparable Replacement Dwelling" form in the file? | **Yes** | **No** | **N/A** |
| Was a referral to at least one comparable replacement dwelling included in the notice of eligibility for relocation assistance? | **Yes** | **No** | **N/A** |
| Is there evidence that the grantee inspected the replacement dwelling to determine that it met the decent, safe, and sanitary standards? | **Yes** | **No** | **N/A** |

LAST RESORT UNIT DOCUMENTATION

| | | | |
|---|---|---|---|
| Have the grantee determined that: | | | |
| The unit is not feasible to rehabilitate? (i.e., rehabilitation cost estimate exceeds $15,000) | **Yes** | **No** | **N/A** |
| No comparable replacement unit exists in the grantee's jurisdiction? (i.e., copy of letter from realtor addressing the unavailability of comparable replacement units) | **Yes** | **No** | **N/A** |

INTERVIEW OF PROJECT DISPLACEE

| | | | |
|---|---|---|---|
| Did the displacee receive notice of eligibility for relocation assistance? | **Yes** | **No** | **N/A** |
| Was the grantee's relocation assistance payment adequate? | **Yes** | **No** | **N/A** |
| Was the grantee's moving expenses payment adequate? | **Yes** | **No** | **N/A** |
| Were the grantee's advisory services sufficient? | **Yes** | **No** | **N/A** |
| Does the displacee consider the grantee's treatment and relocation assistance to be fair and reasonable? (interview) | **Yes** | **No** | **N/A** |

SECTION 104(d) ANTIDISPLACEMENT COMPLIANCE

| | | | |
|---|---|---|---|
| Had the grantee demolished or converted any occupiable low to moderate income dwellings? | **Yes** | **No** | **N/A** |
| Has DED determined that the grantee has a sufficient number of low to moderate income units to grant an exception to the one-for-one replacement requirements? | **Yes** | **No** | **N/A** |
| If No, does grantee have a specific one-for-one replacement plan approved by DED? | **Yes** | **No** | **N/A** |
| Was the displacee notified of relocation assistance available under 104(d), including Option to choose Uniform Act Relocation Assistance? | **Yes** | **No** | **N/A** |
| Which relocation assistance did the displacee choose? | **104(d)** | **Uniform Act** | |

COMMENTS: _____
_____

# PROPERTY MANAGEMENT

**Introduction**

During the course of a CDBG project, recipients may purchase a variety of items necessary to successfully carry out implementation. Depending on its nature and value, there must be an accounting for property acquired with CDBG monies in accordance with the provisions of 24 CFR 85, as modified by 24 CFR 570, Subpart J.

There are two broad classifications of property that may be acquired with CDBG monies. These are as follows:

1. Real Property – land, including improvements, structures, and appurtenances
2. Personal Property – includes all property that is not considered real property such as equipment, desks, computers, lumber, tools, supplies, or intangible items. Intangible items include patents, inventions, and copyrights. Personal property is further classified as:
    - Non-expendable – all tangible property having a useful life of more than one year and an acquisition cost of $3000 or more per unit, such as computers
    - Expendable personal property – all tangible property other than non-expendable items, such as office supplies and construction materials

Title to real property acquired in whole or in part with CDBG monies shall vest with the community as long as it is used for its authorized CDBG eligible purpose. Such real property must be used for the eligible activity approved by CDBG, and continue to meet the national objective, for no less than five (5) years after closeout of the project. If real property is no longer needed for authorized CDBG purposes, the CDBG recipient shall request disposition instructions from DED as follows:

> The amount of compensation shall be computed by applying the percentage of DED/Federal participation in the cost of the original purchase to the current fair market value of the property. For example, if the DED participation was 50% in the program and the fair market value of the property at the time of disposition is $20,000, DED shall be reimbursed $10,000. The Department reserves the right to utilize the option of a straight-line depreciation schedule longer than 5 years to determine repayment, if deemed appropriate, with the grantee's consent.

This rule extends to real property purchased, constructed, or rehabilitated with CDBG funds for grant recipients and sub-recipients.

A CDBG recipient may use non-expendable personal property for community development activities as long as it is needed, even if DED is no longer needed for the original program. The property should be used in conjunction with other Federally-sponsored activities in the following order:

- Activities sponsored by HUD
- Activities sponsored by other Federal agencies

Disposition of non-expendable personal property should take the same form as the explanation of real property.

DED regulations require maintaining effective control over all property acquired in whole or in part with CDBG funds. In addition, recipients are required to assure that it is used solely for authorized purposes.

DED requires the maintenance of a property register as an integral part of effective control over and accountability for all CDBG acquired property. All categories of property may be recorded on this single register, though separate registers should be kept for each project if the community administers more than one grant. When such property is purchased with CDBG funds, enter the applicable date on the register using the procedures described below. For example, in the case of real property, you may want to record the

previous owner of a purchased parcel of land. Recipients may also wish to maintain a property management card for each item obtained.

All purchased property must be adequately controlled and safeguarded. For example, real property, such as buildings, should be adequately equipped with security devices. Non-expendable property, such as desks and computers, should be reasonably protected from theft. In addition, the receipt and issuance of expendable personal property must be controlled.

**Procedures**

1. Identify all assets in real and non-expendable personal property for each CDBG grant.
2. Classify all assets according to the following classification scheme:

real property

1. land acquired
2. land improved
3. buildings and facilities
4. equipment – non-moveable

non-expendable personal property

1. valuation $1 – $300
2. valuation $301 – 4,999
3. valuation $5,000 or more

3. Conduct a complete inventory of all property assets at two-year intervals or at project close-out.
4. Identify all non-expendable personal property by a tag permanently affixed to it which provides the following information:

1) CDBG grant and year

I.D. number

5. Maintain a property register for each CDBG grant. The register shall consist of a current and complete listing of all property acquisitions and dispositions. If, as part of the close-out process, the grantee is directed to compensate DED or the Federal government for its share of the property, then the method used to determine the fair market value should be noted.
6. In addition to the information contained on the register, a Property Management Card file for each item may be maintained to:

1) provide a continuous record of the current value of the property

maintain coding classification references, location, and use information

provide a subsidiary file tied to the property register

7. For expendable personal property, such as that used in housing rehabilitation projects (lumber and electrical fixtures), there must be:

1) adequate records of the receipt of goods, issuance of goods, and balance of items on hand

documentation of the person who authorized the issuance of goods

documentation of the location, such as a house or project, to which the goods were delivered

documentation of the individual who received the goods

Other expendable personal property, such as office supplies, does not need this level of control. However, items must be adequately safeguarded.

## **PROGRAM ADMINISTRATION HELPFUL HINTS**

- Lack of attention to program requirements slows project progress.
- Paperwork organization is extremely important.
- Assigning one point of contact with the city or county eases communication and lessens misunderstanding.
- Remember that the responsibility of the grant rests with the city or county.
- Keep a set of records at the city hall or county courthouse.
- Monitor yourself before the state monitors you (monitoring checklists are in the manual.)
- Real property purchased with CDBG funds is subject to repayment if it changes hands.
- Notify the appropriate Field Rep/CDBG staff if there are any address, telephone number, or e-mail changes for grant administrators, Regional Planning Commissions, project engineers/architects, cities, counties, etc.
- **Notify the appropriate Field Rep/CDBG staff of any key personnel changes. This would include grant administrators, RPC Executive Directors, engineers/architects, city officials (mayors and presiding commissioners), etc.**

# CHAPTER II

## CITIZEN PARTICIPATION

Public Law 100-242, Housing and Community Development Act of 1987, better known as the 1988 Amendments to the Housing and Community Development Act of 1974, was signed into law on February 5, 1988. Section 508 of the new law deals with additions to citizen participation requirements of Section 104(a)(2) of the 1974 Act, as amended.

Public Law 100-242, Section 508 requires the State to develop a written Citizens Participation Plan to incorporate the requirements of the new law. The State of Missouri has developed such a plan, which became effective March 4, 1988. Regulations allowed the new law to be incorporated into the State's funding cycle at the time it was enacted and not retroactively. This Plan was amended November 1, 1988, and November 1, 1990, and such amendments became effective those dates, and are not retroactive.

The following provisions are contained in the State's adopted Citizens Participation Plan and apply to all applications received after March 4, 1988:

1. Recipients **must demonstrate** that reasonable efforts to ensure involvement of citizens or citizen organizations throughout all stages of the program shall be or have been undertaken. There shall be the opportunity for involvement of low-and moderate-income persons, members of minority groups, residents of areas where Community Development Block Grant assisted activity is proposed or ongoing, residents of slum or blighted areas, the elderly, the handicapped, the business community, and civic groups concerned about the program. Citizens and citizen organizations shall be provided the opportunity to assess and submit comments on all aspects of the City's Community Development Program performance. **All records of above efforts shall be made a part of grant files**.

2. All applicants for and recipients of Community Development Block Grant funds shall be required to conduct all aspects of the Community Development Program in an open manner with access to records on the proposed and actual use of funds for all interested persons. **All records of applications and funded grants must be kept at the recipient/grantee's offices and be available during normal working hours**. Any activity of the Community Development Program, with the exception of confidential matters relating to the housing rehabilitation and economic development programs, shall be open to examination by all citizens.

3. The applicant/recipient must provide technical assistance, at the level of expertise available at City Hall, to groups representative of persons of low-and moderate-income who request such assistance in developing proposals. All application materials and instructions shall be provided at no cost to any such group requesting it.

4. Citizens shall be provided adequate and timely information, so as to enable them to be meaningfully involved in important decisions at the various stages of the program, including at least the development of needs, the review of the proposed activities, and review of past program performance, in the following manner:

    a. **At least one public hearing** shall be held prior to an application being submitted to the State for funding through the CDBG program. Hearings shall be scheduled at a time and location felt to be most likely possible for the majority of interested citizens to attend without undue inconvenience. The development of needs and the review of the proposed activities and their possible environmental impact must be addressed at this hearing as reflected by minutes of the hearing. **The hearing cannot be more than six months prior to application submittal.** The review of past program performance must be addressed in public hearing prior to grant close-out. Proof of said hearing will be part of close-out documentation.

b. **Notification of any and all hearings shall be given a minimum of five full days (actually seven days, as the day of the notice and the day of the hearing cannot be counted as one of the five full days) in advance to allow citizens the opportunity to schedule their attendance**. Said notification shall be in the form of **display-type advertisements** in the newspaper with greatest local distribution, and/or by posting, letters, flyers, and any other forms that are clearly documented with wide circulation. **All hearings must be accessible to handicapped persons**. Consultation with CDBG staff is recommended prior to posting.

5. Local governments must be cognizant of the needs of Limited English Proficiency (LEP) persons in their jurisdictions, and must make reasonable accommodations to ensure that this information is available to all persons.

6. The mayor or presiding commissioner's office shall receive and relate to appropriate persons or groups any views or proposals submitted within the decision-making time. Any criticism submitted in writing at any time should be answered in writing within 15 working days of receipt. All complaints shall be received and acted upon within 15 days by the mayor or presiding commissioner's office. If the complaint is not resolved, it shall be referred to the governing body for final disposition. The close-out process cannot be completed with outstanding citizens' complaints.

**The above provisions of the Plan will be monitored by field representatives in accordance with the Citizen Participation Field Review form.**

As noted in the Plan, a public hearing must be held prior to submittal of a formal application and prior to passage of the resolution to submit the application. The second hearing must address the performance on the funded grant at a minimum of 80% completion.

Sample public hearing notices can be found on the following pages. Minutes of all public hearings should be maintained indicating topics covered, including specific previous grant performance reviewed in the hearing(s).

# PUBLIC HEARING NOTICES

## HEARING NO. 1

1. The newspaper notice must include the following information:
    a. The city/county intends to submit an application for CDBG funds
    b. The maximum grant amount
    c. The type of activities that may be undertaken include the improvement of public works, public facilities, housing rehabilitation, and others as allowed by law
    d. At least 51% of the funds must be used to benefit low- and moderate-income persons, or the funds will be used to eliminate slums and blight, as applicable
    e. There will be minimization of displacement of persons resulting from the project, and assistance to any displaced persons would be provided according to the Uniform Relocation and Real Property Acquisition Act of 1970, as amended, and Section 104(d), Section 104(k), or Section 105(a)(11) of the Title I Act
    f. The city/county is soliciting citizen input on the entity's on-going community development needs
    g. Description of proposed project for which the city/county is applying
    h. Total estimated project cost, including amount being applied for, other state/Federal funds, local contribution proposed, etc.
    i. Specific location of project, either community-wide or boundaries (by name) of target area
    j. Percent of low- and moderate-income benefit of the proposed project (if known), or at least 51%
    k. Encouragement of area residents to attend
2. The notice must be sufficient in size and clarity to properly gain public attention.
3. A copy of the notice must be included in the application.

## SAMPLE PUBLIC NOTICE - HEARING NO. 1

The City of Anytown will hold a public hearing on January 3, 2015, 7:00 p.m. at City Hall located at (insert address) to discuss the city's submission of an application for the Fiscal Year 2015 Community Development Block Grant (CDBG) program. The city is interested in obtaining all citizens' input on community development needs within the city. As part of the hearing process, citizens will be asked to verbally assist in the completion of a Needs Assessment document. The document will detail what the residents feel are the strengths and weaknesses of the community. In addition to the Needs Assessment, citizens will have the opportunity to discuss the impact of the proposed project on the environment and the environment's possible impact on the project. The city needs as much local participation as possible in order to reflect the true desires of the community as a whole, as well as the comments relating to the proposed project application. The State has established a maximum application request for each funding category. Activities that are eligible for funding include the improvement of public works, public facilities, housing rehabilitation, and others allowed by law. At least 51% of the funds must be used to benefit low- and moderate-income persons. No displacement of persons will be proposed.

The city is proposing to replace some sewer lines, install some new sewer lines, and install a lift station in the southeast part of the city. The area to be addressed is bounded by Main Street on the east, Gordon Street on the west, BN Railroad on the north, and the City Limits on the south. The total project cost is estimated at $322,000. The city proposes to contribute $48,000 in cash, $45,000 in-kind labor by city crews, with grant funds of $229,000 needed to make up the balance. The project, if funded, will benefit 57% low- and moderate-income persons. All citizens, including those in the targeted area, are encouraged to attend in order to comment on the proposed activities.

For more information, or if you require special accommodations at the hearing, contact Jane Doe at 314-888-8888.

## HEARING NO. 2

A second public hearing on grant performance is required after a minimum of 80% of grant completion. Documentation shall include the newspaper advertisement and the minutes of the hearing. This must be submitted to DED as part of the close-out process.

### SAMPLE PUBLIC NOTICE - HEARING NO. 2

The City of Waterville will hold a public hearing at 6:30 p.m. prior to regular Council meeting on February 24, 2015, in Council Chambers at City Hall located at (insert address) to discuss the past performance by the City in carrying out the City's 2015 water project in the northwest section of town. Approximately 3,120 LF of 2" cast iron water line was replaced with 6" PVC line, and a new ground storage unit was installed to help the water supply problem in peak periods. All interested citizens and groups are encouraged to attend the scheduled hearing.

For more information, or if you require special accommodations at the hearing, please contact Jane Doe at 314-888-8888.

## **CITIZEN PARTICIPATION HELPFUL HINTS**

- Projects with large community involvement and understanding are always more successful.
- Five full days between the announcement of the hearing (publication or posting) and the hearing really means seven days.
- If you post your meeting notice instead of publishing it, then you must document the sites of the posting and the date.
- Change the sample publication notice to match your project.
- Hold your public hearing in a handicapped accessible location.
- Keep an attendance list at all hearings and meetings, as well as minutes.
- Respond to all request or complaints addressed at public hearings.

# CHAPTER III

# FINANCIAL MANAGEMENT & REPORTING

## Financial Management

**Introduction**

This chapter outlines the financial management standards and procedures for administering state CDBG grants. Grantees should become familiar with these standards and procedures to facilitate project administration and to avoid having problems arise at the time of grant close-out and audit. The fundamental purpose of financial management is to ensure the appropriate, effective, timely and honest use of funds.

Specifically, grantees must ensure that:
1. Internal controls are in place and adequate;
2. Documentation is available to support accounting record entries;
3. Financial reports and statements are complete, current, reviewed periodically; and,
4. Audits are conducted in a timely manner and in accordance with applicable standards.

**Financial Management Standards**

The federal regulations governing the financial management of CDBG-DR projects include but are not limited to:

- 2 CFR Part 200 HUD Overview for Grantees (in part) that governs cost principals for state and local governments. Subpart E governs the State CDBG Program. Section 570.489 details program administrative requirements (Note applicable HUD waivers).
- 24 CFR Part 570 "Community Development Block Grants", Both 2 CFR Part 200 and 24 CFR Part 570 govern CDBG grantee financial management systems.
- In addition, the use and accounting for Disaster Recovery CDBG funds are governed by

  The MO DED CDBG requirements. Failure to account for and manage CDBG-DR funds accordingly may result in sanctions imposed by MO DED and/or HUD.

**Areas of Financial Management**

This chapter outlines the basic procedures and forms necessary to comply with CDBG standards in four areas of financial management. These areas cover:

1. Grant payment procedures

   Set up to receive grant payments from the State

   - Procedures that minimize the amount of time elapsed between transfer of funds from the US Treasury and the disbursements by the grantee (recipient) for timely expenditure of funds
   - Comparison of actual expenditures with amounts budgeted for the grant
   - Procedures for determining reasonableness and allowable costs (required for CDBG-DR - See Appendix in CDBG-DR Manual for Sample Cost and Price Analysis Worksheet)

2. Establishing and maintaining the CDBG accounting system
    - Accurate, current, and complete disclosure of financial results
    - Records that identify adequately the source and application of grant funds
    - Accounting records that are supported by appropriate source documentation
    - Systematic method to assure timely and appropriate resolution of audit findings and recommendations
3. Identifying and using program income
4. Reporting on grant financial activity to DED

## GRANT PAYMENT

Execute necessary forms:

1. execute the grant agreement / finalize the projection of expenditures
2. submit signed original Authorized Signature (SFM01) Form to DED
3. submit signed original Designation of Depository (SFM02) Form to DED
4. submit the Vendor Input/ACH-EFT Application – WITH CDBG designated for the account

Funds are to be deposited into a separate non-interest bearing (FDIC insured) account which is to be balanced on a monthly basis.

The processing time needed to set up electronic accounts with the state's Office of Administration averages approximately ten days. Funds can be drawn once the grant agreement is executed and all required forms are submitted and an account is set up.

**Executing the Grant Agreement**

Execution of the grant agreement is complete only after the grant agreement has been signed by the grantee and by the director of the Department of Economic Development. Generally, the process of executing the grant agreement occurs in the following way:

1. After reviewing and approving the grant application, DED notifies the applicant that the proposed project has been selected for funding and that a contract agreement will be forthcoming.
2. DED then prepares a contract agreement and forwards copies to the applicant.
3. The applicant executes the agreement by signing, attesting, and stamping it with the **official seal** of the community
4. The applicant returns all copies to DED.
5. The copies are then signed and approved by the Director of DED.
6. A copy of the fully executed grant agreement is returned to the applicant.

In addition to acknowledging acceptance of the CDBG award, execution of the grant agreement serves at least two other purposes. One, it acknowledges that the recipient accepts and will comply with all Federal and State

requirements governing administration of the grant; and two, it sets out the terms and conditions of the award that must be satisfied before funds will be released for certain activities. Costs for exempt project activities can be incurred only **after** the date of the grant agreement. Costs for project activities that are subject to specific contract conditions (e.g., environmental review) can be incurred only after execution of the agreement and removal of the conditions. (See Notice of Removal of Grant Conditions in the Environmental Review Chapter.)

**Timely Expenditure of Funds**

Grant applicants are required to submit a Schedule of Projected Expenditures as part of the CDBG application process. This schedule outlines by quarter and by activity the estimated timeline for expenditures of the grant award, if selected for funding. If awarded funding, grantees are required to submit any updates to expenditure projections on a quarterly basis, or in any event where the original timeline for full expenditure will be revised to a future date.

**Completing and Submitting Authorized Signature Form (SFM01)**

Grant recipients must prepare and mail to DED the Authorized Signatures Form with original signatures for each project. This form designates not less than two local officials who will be authorized to sign the Requests for Funds (RFF). Persons signing the Signature Form must be city/county officials and/or employees. The names and titles of these persons on the Signature Form must be signed by each person **exactly** as their name appears on the form. Another independent local official must then certify that the individuals listed at the top of the form are authorized to co-sign RFFs by signing on the bottom portion of the form. The certifying official **must be the highest ranking elected official whose name is not listed as a co-signer on the Signature Form.** This official cannot co-sign RFFs submitted to DED. Administrators who are not city/county officials and/or city/county employees are not permitted to sign the Signature Form.

**Note**: Per Sections 54.100 and 95.060 RSMO 1978, county and city treasurers will control the receipt of county or city monies and should disburse the same.

The completed Signature Form with **original** signatures in blue ink, free of erasures and corrections, must be mailed to DED. A second copy should be placed in the grantee's project files. New signature forms must be resubmitted if less than two signatures remain with authority to submit RFFs, or a separate DED award is made to the same recipient in a subsequent year.

**Completing and Submitting Designation of Depository Form (SFM02)**

Grant recipients must also notify DED where grant payments are to be deposited. This requires that recipients submit information about the account to DED on the Designation of Depository form. However, the CDBG Program requires that the CDBG funds must be in a separate, non-interest bearing account. Therefore, the funds should be transferred, from the account into which they are deposited, to the CDBG account immediately upon receipt if the receiving account is interest-bearing. The grantee must designate, on the SFM02 form in Section 2, the account into which CDBG funds be transferred. You may elect to have CDBG funds deposited into a general account. However, since many general accounts are interest-bearing, the funds must be transferred to a non-interest bearing account immediately after deposit.

**The State's Office of Administration will now permit CDBG grantees to receive funds directly into a separate CDBG account, rather than going through the city or county's general account, as long as the account is so designated on the ACH form and Vendor Input form as "City of Anytown – CDBG". This title must be listed on the ACH form by Vendor's name.** Grantees may choose which options best suit their needs.

The State of Missouri purges vendor account information from the state accounting system for vendors with no activity for a period of 12 months or more. Please monitor the status of activity on your CDBG and/or state account to ensure it remains active.

All checks issued on the CDBG bank account are required to have two signatures.

The Designation of Depository form consists of two sections, one to be completed and signed by the CDBG recipient and the other by the bank. The bank certifies that the account is non-interest bearing, **or will be transferred immediately upon deposit into a non-interest bearing account,** and indicates how CDBG deposits are insured.

According to Section 110.010 RSMO 1978, "all public funds in banking institutions shall be secured by the deposit of securities." The statute further states that "the value of securities deposited and maintained by a legal depository under Section 110.010 shall at all times be not less than one hundred percent of the actual amount of the funds on deposit with the depository, less the amount, if any, insured by the Federal Deposit Insurance Corporation." All recipients should obtain a pledge of collateral security from the participating bank for coverage of all amounts of CDBG funds over FDIC coverage. This will be monitored during the grant period. One completed depository form with **original** signatures must be mailed to DED for each project. The recipient should retain a copy for their project files.

**Vendor Input/ACH-EFT Application**

All CDBG funds must be disbursed via Automatic Clearing House. Communities will not submit a voided check or deposit slip with the application; the ACH form must be completed and an original must be mailed to CDBG. The form must have the account number and the routing number of the bank. Be sure that the account number is the same as the account number on the Designation of Depository Form (SFM02). The form should be signed by the mayor/presiding commissioner, as well as by the authorized person of the listed financial institution. Leave the space for the vendor number blank as that is a number the State of Missouri has/will have assigned. The account label/name must designate that it is a CDBG account. For example “City of Anytown – CDBG” should be included in the field “Name on Account” under the part to be completed by the Financial Institution.

*** Please verify with the grantee all current account information on file with the state for current or past projects to reduce delays in processing due to conflicting accounts.**

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

## AUTHORIZED SIGNATURES FOR CDBG REQUESTS FOR FUNDS (SFM01)

| NAME OF RECIPIENT | | | PROJECT # | |
|---|---|---|---|---|
| PERIOD OF CONTRACT TO | | RECIPIENT FISCAL YEAR END DATE | CONTRACT # | |
| THE INDIVIDUALS NAMED BELOW ARE AUTHORIZED TO SIGN ALL REQUESTS FOR FUNDS (RFF) DOCUMENTS. | | | | |
| TYPED NAME | | TITLE | SIGNATURE EXACTLY AS IT APPEARS IN TYPED FORM | |
| | | | | |
| | | | | |
| | | | | |
| CERTIFICATION:<br>I certify that the above signatures are of the individuals authorized to co-sign requests for funds. (Note: This person must be the highest ranking elected official whose name is not listed above.) | | | | |
| TYPED NAME: | TITLE | SIGNATURE | TELEPHONE ( ) | DATE |
| ADMINISTRATIVE CONTRACTS: | | | ACCOUNTING SYSTEM USED: | |
| PROJECT ADMINISTRATOR: (person responsible for over-all supervision of the CDBG grant) | | | ☐ CDBG ☐ OWN | |
| TYPED NAME | | TELEPHONE ( ) | | |
| ADDRESS | | CITY ZIP CODE | FEDERAL EMPLOYER ID #: | |
| FINANCIAL ASSISTANT: (person responsible for submitting requests for funds) | | | | |
| TYPED NAME | | TELEPHONE ( ) | STATE USE ONLY | |
| ADDRESS | | CITY ZIP CODE | FIELD STAFF FISCAL | |
| NOTE: Recipient should retain one copy and send two originally signed copies free of erasures or corrections to DED. | | | | |

MO 419-1458 (03-88) 0842-1/101P

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

## AUTHORIZED SIGNATURES FOR CDBG REQUESTS FOR FUNDS (SFM01)

| NAME OF RECIPIENT | | PROJECT # |
|---|---|---|
| City of Anytown, Missouri | | 94-PF-01 |
| **PERIOD OF CONTRACT** | **RECIPIENT FISCAL YEAR END DATE** | **CONTRACT #** |
| 7-1-94 TO N/A | 6/30 | N/A |

THE INDIVIDUALS NAMED BELOW ARE AUTHORIZED TO SIGN ALL REQUESTS FOR FUNDS (RFF) DOCUMENTS.

| TYPED NAME | TITLE | SIGNATURE EXACTLY AS IT APPEARS IN TYPED FORM |
|---|---|---|
| Clara Clerk | City Clerk | Clara Clerk |
| Terry Treasurer | City Treasurer | Terry Treasurer |
| Connie Collector | City Collector | Connie Collector |
| Conrad Councilman | City Councilman | Conrad Councilman |

**CERTIFICATION:**
I certify that the above signatures are of the individuals authorized to co-sign requests for funds. (Note: This person must be the highest ranking elected official whose name is not listed above.)

| TYPED NAME | TITLE | SIGNATURE | TELEPHONE | DATE |
|---|---|---|---|---|
| Marvin Mayor | Mayor | Marvin Mayor | (314) 555-1234 | 8-3-94 |

**ADMINISTRATIVE CONTACTS:**

PROJECT ADMINISTRATOR: (person responsible for over-all supervision of the CDBG grant)

| TYPED NAME | TELEPHONE |
|---|---|
| Doug Director | (314) 555-1234 ex:12 |

| ADDRESS | CITY | ZIP CODE |
|---|---|---|
| P.O. Box 1234, Anytown, Missouri | 12345 | |

FINANCIAL ASSISTANT: (person responsible for submitting requests for funds)

| TYPED NAME | TELEPHONE |
|---|---|
| Frank Finance | (314) 555-1234 ex:14 |

| ADDRESS | CITY | ZIP CODE |
|---|---|---|
| P.O. Box 1234 | Anytown, Missouri | 12345 |

**ACCOUNTING SYSTEM USED:**
☒ CDBG ☐ OWN

**FEDERAL EMPLOYER ID #:**
69-123456789

**STATE USE ONLY**
FIELD STAFF FISCAL

NOTE: Recipient should retain one copy and send two originally signed copies free of erasures or corrections to DED.

MO 419-1458 (03-88) 0842-1/101P

# MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

## DESIGNATION OF DEPOSITORY: DIRECT DEPOSIT (SFM02)

| | PROJECT NO. | CONTRACT NO. |
|---|---|---|

### SECTION 1: DESIGNATION

RECIPIENT

ADDRESS

CITY STATE ZIP CODE

An account for the direct deposit of CDBG funds has been established at the following bank:

BANK NAME

ADDRESS

CITY STATE ZIP CODE

The account number to which all CDBG checks will be deposited is:

ACCOUNT NO.

I certify that this or the transfer account is a non-interest bearing account which shall be maintained on a basis consistent with Treasury Circular 1075. *If the account is interest-bearing, funds will transferred immediately upon deposit into the account referenced in Section 2.

GRANTEE CHIEF EXECUTIVE'S TYPED NAME DATE

SIGNATURE OF GRANTEE CHIEF EXECUTIVE

### SECTION 2: CERTIFICATION BY DEPOSITORY

The account identified in Section 1 has been established with this bank. It is a non-interest bearing account. * If account is interest-bearing, this bank and the recipient agree that all funds will be immediately transferred upon deposit into _____.
* Transfer Account No.

All necessary documentation, including a power of attorney where necessary, which will enable this bank to receive CDBG funds directly from the State of Missouri to _____ without any
Deposit Account No.
endorsement by the payee, has been received and is in this depository's custody.

This depository's deposits are insured by _____. Appropriate collateral
Insurance
will be pledged by this bank any time that the depositor's balance exceeds this insurance limit.

Immediately upon deposit of CDBG funds we will notify the recipient and, subsequently, provided a copy of the check and documentation of deposit. Monthly statements and copies of all checks will be provided to the recipient.

AUTHORIZED BANK OFFICER'S TYPED NAME DATE

SIGNATURE OF AUTHORIZED BANK OFFICER

### SECTION 3: DED PROCESSING

| FIELD STAFF | FISCAL |
|---|---|
| DATE RECEIVED | DATE RECEIVED |
| CDBG APPROVAL INITIALS | FISCAL APPROVAL INITIALS |

NOTE: RECIPIENT SHOULD RETAIN ONE COPY AND SEND TWO SIGNED COPIES FREE OF ERASURES OR CORRECTIONS TO DED.

MO 419-1459 (04-93)

MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

## DESIGNATION OF DEPOSITORY: DIRECT DEPOSIT (SFM02)

| PROJECT NO. | CONTRACT NO. |
|---|---|
| 94-PF-01 | N/A |

### SECTION 1: DESIGNATION

RECIPIENT
City of Anytown, Missouri

ADDRESS
P.O. Box 1234, 501 Main Street

CITY | STATE | ZIP CODE
Anytown, Missouri 12345

An account for the direct deposit of CDBG Funds has been established at the following bank:

BANK NAME
Anytown Bank

ADDRESS
505 Elm Street

CITY | STATE | ZIP CODE
Anytown, Missouri 12345

The account number to which all CDBG checks will be deposited is:

ACCOUNT NO.
1-23-456

I certify that this is a non-interest bearing account which shall be maintained on a basis consistent with Treasury Circular 1075.

GRANTEE CHIEF EXECUTIVE'S TYPED NAME | DATE
Marvin Mayor | 8-3-94

SIGNATURE OF GRANTEE CHIEF EXECUTIVE
Marvin Mayor

### SECTION 2: CERTIFICATION BY DEPOSITORY

The account identified in Section 1 has been established with this bank. It is a non-interest bearing account. All necessary documentation, including a power of attorney where necessary, which will enable this bank to receive CDBG funds directly from the State of Missouri to 1-23-456 (Account No.) without any endorsement by the payee, has been received and is in this depository's custody.

This depository's deposits are insured by: F.D.I.C. (Insurance). Appropriate collateral will be pledged by this bank any time that the depositor's balance exceeds this insurance limit.

**Immediately upon deposit of CDBG funds we will notify the recipient and, subsequently, provide a copy of the check and documentation of deposit. Monthly statements and copies of all checks will be provided to the recipient.**

AUTHORIZED BANK OFFICER'S TYPED NAME | DATE
Bob Banker | 8-4-94

SIGNATURE OF AUTHORIZED BANK OFFICER
Bob Banker

### SECTION 3: DED PROCESSING

| FIELD STAFF | FISCAL |
|---|---|
| DATE RECEIVED | DATE RECEIVED |
| CDBG APPROVAL INITIALS: | FISCAL APPROVAL INITIALS: |

NOTE: RECIPIENT SHOULD RETAIN ONE COPY AND SEND TWO SIGNED COPIES FREE OF ERASURES OR CORRECTIONS TO DED.

MO 419-1459 (04-93) 0843-9/101P

Located at: http://oa.mo.gov/sites/default/files/vendor_input_ach_eftd.pdf

STATE OF MISSOURI
OFFICE OF ADMINISTRATION

## VENDOR INPUT/ACH-EFT APPLICATION

*REQUIRED FIELDS

| | |
|---|---|
| *NAME/ADDRESS AS SHOWN ON FEDERAL TAX RETURN | *FEDERAL TAX ID NUMBER OR SOCIAL SECURITY NUMBER |
| | *TYPE OF ENTITY<br>☐ Corporation ☐ Sole Proprietor ☐ Individual ☐ State Employee<br>☐ Other |
| | DATE OF CHANGE |
| REMIT TO NAME/ADDRESS IF DIFFERENT THAN ABOVE | PREVIOUS FEDERAL TAX ID NUMBER OR SOCIAL SECURITY NUMBER |
| | PREVIOUS NAME |
| | PREVIOUS ADDRESS |
| | COMMENTS |
| PURCHASE ORDER NAME/ADDRESS IF DIFFERENT THAN ABOVE | |

**TO BE COMPLETED BY FINANCIAL INSTITUTION**

| | |
|---|---|
| NAME/ADDRESS OF FINANCIAL INSTITUTION | ☐ I (We) hereby authorize the State of Missouri, to initiate credit entries to my (our) account at the depository financial institution named and to credit the same such account. I (We) acknowledge that the origination of ACH transactions to my (our) account must comply with the provision of U.S. law.<br>This authorization is to remain in full force and effect until the State of Missouri, Office of Administration, has received written notification from me (us) of its termination in such time and in such manner as to afford the State of Missouri and the financial institution a reasonable opportunity to act on it. |
| DEPOSITOR ROUTING NUMBER | |
| DEPOSITOR ACCOUNT NUMBER | |
| NAME ON ACCOUNT | ☐ I (We) hereby cancel my (our) ACH/EFT authorization. |
| TYPE OF ACCOUNT<br>☐ CHECKING ☐ SAVINGS | *VENDOR SIGNATURE<br>X |
| SIGNATURE OF REPRESENTATIVE OF FINANCIAL INSTITUTION | *PRINT NAME |
| PRINT NAME | *TITLE |
| TITLE | EMAIL ADDRESS |
| TELEPHONE NUMBER / DATE | *TELEPHONE / *DATE |

**CERTIFICATION FOR INTERNAL REVENUE SERVICE (IRS)**

☐ **Exempt from Backup Withholding**

Under penalties of perjury, I certify that:
I. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
II. I am not subject to backup withholding because: **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding, **and**
III. I am a U.S. person (including a U.S. resident alien).
**Certification instructions.** You must cross out item II above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For all real estate transactions, item II does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See W-9 Instructions on irs.gov website for more information.) The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.

SIGNATURE

MO 300-1489 (7-10)

FAX COMPLETED FORMS TO (573) 526-9813 or
MAIL TO OFFICE OF ADMINISTRATION/ACCOUNTING, PO BOX 809, JEFFERSON CITY, MO 65102

**VENDOR INPUT FORM INSTRUCTIONS**

**The purpose of this form is to add a vendor record or to make changes to a vendor record. A vendor is a person or business being paid by the State of Missouri.**

**THESE FIELDS ARE REQUIRED TO BE COMPLETED FOR ALL CIRCUMSTANCES. (SHADED FIELDS)**

Enter NAME/ADDRESS AS SHOWN ON FEDERAL TAX RETURN.

Enter the FEDERAL TAX ID NUMBER OR SOCIAL SECURITY NUMBER that is used for income taxes for the name entered.

Check the correct TYPE OF ENTITY.

Signature is required at VENDOR SIGNATURE along with PRINT NAME, TITLE, TELEPHONE, and DATE.

**CONDITIONAL FIELDS**

If payments are to be sent to a different address, enter a REMIT TO NAME/ADDRESS.

If purchase orders are to be sent to a different address, enter a PURCHASE ORDER NAME/ADDRESS.

If you are making a change to your vendor record, fill out these additional fields:

DATE OF CHANGE is the effective date of the change in business structure/activity

PREVIOUS FEDERAL TAX ID NUMBER OR SOCIAL SECURITY NUMBER

PREVIOUS NAME

PREVIOUS ADDRESS

COMMENTS are for additional information that may be helpful including reason for the change.

**TO SET UP OR TO CHANGE DIRECT DEPOSIT INFORMATION, FILL IN THE FOLLOWING, INCLUDING THE REQUIRED FIELDS FROM ABOVE.**

NAME/ADDRESS OF FINANCIAL INSTITUTION where you want the money to be deposited. A representative from the financial institution must complete and sign this section.

Check appropriate box for electronic deposits.

If changing bank account information, fill in DATE OF CHANGE.

**CERTIFICATION FOR INTERNAL REVENUE SERVICE (IRS)**

This certifies that the Taxpayer Identification Number (TIN) on this form is the correct number and whether backup withholding applies.

Fax to (573) 526-9813 or mail to Office of Administration/Accounting, PO Box 809, Jefferson City, MO 65102.

MO 300-1489 (5-10)

SAM II

# CDBG FUNDING FORMS CHECKLIST

**Authorized Signature Form (SFM01)**

- ❑ Has the SFM01 form with original signatures been mailed to DED?
- ❑ Has the form been signed (certified) by the highest ranking elected official NOT listed as a co-signor on the SFM01?*
- ❑ Does the form designate not less than two city/county employees or officials?
- ❑ Does the form include your Federal Employer ID number (FEIN)?

**Designation of Depository Form (SFM02)**

- ❑ Has the SFM02 form with original signatures been mailed to DED?
- ❑ Is the account number indicated on the form a general account? If not, has "-CDBG" been identified in the vendor account name?
- ❑ Is the account indicated on the form an interest-bearing account?

  If yes, have arrangements been made to immediately transfer CDBG monies from the account once deposited?
- ❑ Has the CDBG recipient signed the form?
- ❑ Has the financial institution signed the form and certified the appropriate section?

**Vendor Input/ACH-EFT Application**

- ❑ Has the financial institution provided an authorized signature on the form?
- ❑ Is the account number indicated on the form the same account number designated on form SFM02?
- ❑ If the ACH is to establish a separate account for deposit of CDBG funds, is the proper CDBG notation included with the Vendor Name?

***Use of Blue Ink for Signatures is requested**.

# REQUEST FOR FUNDS (RFF)

After DED receipt and approval of the afore-mentioned items, CDBG recipients are permitted to submit a Request for Funds Form (RFF). Please note the following items regarding an RFF:

- Requests for payments must be authorized according to the recipient's internal control process and signed by the persons designated on the Authorized Signature Form.
- The recipient must establish cash management procedures and be able to provide documentation in the form of a cash transaction ledger. This should include the date of each receipt of federal funds from the state and the date of each expenditure on the grant, separating funds to be reimbursed from federal grant dollars, required matching funds and other funds.
- Total funds requested cannot exceed the approved total budget for any activity without prior approval from DED. An analysis of the budget should be conducted whenever there are potential line item budget revision to ensure that the total costs are within the total project budget.
- The cost reimbursement method of payment consists of the payment of CDBG funds to the recipient based on actual expenditures that the recipient has paid. Supporting documentation may include invoices, paid bills, purchase vouchers, payrolls, copies of checks, contractor pay applications, etc. All vouchers/invoices should be on vendors' letterhead. Source documentation should explain the basis of the costs incurred and the actual dates of the expenditure. For example, source documentation on payments to contractors would include a request for payment, proof of inspection to verify work and materials, and cancelled checks.
- The recipient may also request funds for incurred costs that the recipient is unable to pay ahead of receiving funds from DED. Supporting documentation includes invoices or similar documentation. At time of project monitoring, recipient must provide supporting documentation including bank statements and cancelled checks.
- The recipient should allow 7 working days for payment to be processed, after required corresponding documentation has been submitted. Any payment request that is not completed properly may be returned to the recipient without being processed. Some of the reasons for return may include:
    1. Contracts not approved by DED (if applicable)
    2. Adjustments to amounts previously drawn not reported correctly or in a timely fashion.
    3. Administrative funds not requested proportionately to progress.
    4. Budget amounts, amounts previously drawn, and/or total expenditures to date do not agree with the DED's records.
    5. Required match not documented prior to draw down of final CDBG funds, or a pro rata draw is not requested, if required.
    6. Unauthorized signature on RFF.
    7. There is a reason to stop payment on the grant).
- The minimum amount that may be requested is $500.00. Recipients may not maintain a cash balance in excess of $1,000 for more than three days ("three day rule"). In order to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the recipient, DED will inform grantees of draw dates for funds, in order for recipients to most accurately project cash needs, receive timely transfers from the state and disburse funds. Contact DED with any questions concerning this process.

- Recipients should request funds to meet actual current cash requirements. Requests must be include accurate information. Disbursement of funds must occur in a timely manner. If payment takes longer than the three days (see "three day rule" above), written justification is to be maintained in the project files.
- In the case of requesting funds for a real estate closing, a preliminary draft of the HUD-1, prepared by the closing agent is to be submitted with the request for funds. The timing of the transfer of funds to the grantee is to be considered in relation to the date of the closing. The grantee is to expend funds within three days of the transfer. If the closing is postponed, please contact DED.
- Requisitions are limited to funds for exempt activities (e.g., planning, audit, administration, and engineering design) until the Environmental Review process is complete and a Notice of Removal of Grant Conditions has been issued. (See the Environmental Review Chapter.)
- All RFF forms should be numbered sequentially and maintained as part of the financial management file. Please initial any erasures or corrections made to the request.
- Two signatures are required on each RFF. Persons co-signing the RFF must be listed as authorized to sign on the Signature Form. Signatures must be signed exactly as they appeared in typed form on the Signature Form. **Use of blue ink for signatures is very helpful for review of RFFs.** We request that you use blue ink when possible to expedite verification of original signatures.
- Blank RFFs should **not** be pre-signed by city officials.
- Recipients should limit submissions to two RFFs per month. Internal procedures should be streamlined to ensure invoices and documentation are aggregated for the appropriate time period and submitted with the RFFs.
- Recipients are permitted to establish escrow accounts to facilitate payments to small contractors in **a housing rehabilitation program only**. **Amounts held in the escrow account must not exceed the normal cash flow need of 10 days. The escrow account may be interest bearing.** The interest earned can be used to pay administrative costs; however, interest in excess of $100 earned in a calendar year must be returned to DED.

**The DED may withhold payment of CDBG funds for one or more of the following reasons:**

- Semiannual and/or annual reports are not received
- Audit report or response to request to report other federal assistance received
- Response to monitoring or other requests not received
- Noncompliance with other grant agreement terms.

For public facility projects, the maximum allowable drawdown for administration funds is as follows:

- No more than 25% at time of removal of grant conditions. This means lesser amounts can be drawn prior to the release of funds.
- Up to 50% upon approval of first contractor's payroll (for in-kind labor, this will be after first draw for materials)
- Up to 75% upon 50% construction draw
- **90% prior to final paperwork – 10% of administration must remain until closeout**
- 100% after completion of all final paperwork with possible exception of audit

For public facility projects, the maximum allowable drawdown for engineering funds is as follows:

**Engineering Design**

- No more than 25% can be drawn at time of removal of grant conditions
- Remaining 75% can be drawn at the time project goes out to bid

**Construction Inspection**

- No more than 25% at time first CDBG construction payroll is approved
- Up to 50% upon 50% of CDBG construction draw
- Up to 75% upon 75% of CDBG construction draw
- Up to 90% upon 90% of CDBG construction draw
- Remaining 10% once project is 100% complete and CDBG has received the Certification for Acceptance and Final Payment.

For neighborhood development projects, the maximum allowable drawdown for administration funds is as follows:

- No more than 25% at time of removal of grant conditions. This means lesser amounts can be drawn prior to the release of funds.
- 50% upon completion of three houses
- **90% prior to final paperwork – 10% of administration must remain until closeout**
- 100% after completion of all final paperwork with possible exception of audit

## Instructions for Completing the new one-page RFF:

The form contained in this manual is available in MS Excel online at http://ded.mo.gov/upload/rff.pdf . The RFF for Disaster-funded (DF, DI, DS) projects *only* is located at https://ded.mo.gov/pdfs/CDBG%20Forms/RFF-%20Disaster%20Projects-15.pdf and scroll to the Financial Forms section. This form includes an additional field titled "DRGR Activity #" that will need to be populated from information on the funding approval. Please use the following instructions when completing the online form. A PDF version is available, but does not contain programmed fields.

1. The gray highlighted areas should be input directly with information taken from the funding approval, current invoices, and expense details, as applicable.
    - For Section 1: List all payees for current RFF being submitted. Payee name should reflect check recipient.
        1. For multiple payees from a single activity, list each payee on its own line. (i.e. ABC Construction and DEH Construction should not be combined).
        2. For payees with multiple invoices under the same activity, combine the invoice totals. (i.e. ABC Construction has two invoices, $3500 and $1500. These should be combined and listed as $5000)
        3. For payees being paid from more than one activity, list the activities separately. (i.e. ABC Construction is being paid $2000 for Sewer and $8000 for Streets. These items should be listed separately)

        *If the City/County is being reimbursed for a previous eligible expense, the payee should be listed as "City/County Reimbursement for ..."
    - For Section 2: List all CDBG-funded activities listed on the funding approval.
2. The remaining fields should calculate automatically based on input of the gray cells.

| CDBG Staff Use Only | |
|---|---|
| RFF Review: | |
| Exp. Review: | |
| Check Date: | |

RFF# _____
Date _____
Amount of this Request $0.00

**Grantee Name:** _____ **Project #:** _____ **Award Date:** _____

Instructions: Submit the originally signed form to: CDBG Program, ATTN: RFF, Department of Economic Development PO Box 118, Jefferson City, MO 65102. The grantee must keep one copy for their files.

**Section 1: Identification of Program Costs**

| **PAYEES per activity/details** | (See Grant Contract Agreement. Appendix A /Funding Approval) *Activity Name (list each only once)* | *Number* | **AMOUNT** |
|---|---|---|---|
| | | | |
| | | | |
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| | | | $ - |

**Section 2: Activity Budget Status Report**
**PROGRAM ACTIVITIES**

Enter all CDBG Funded Program Activities Listed on Funding Approval

| **Activity Name** | **Activity #** | **Grant Award** | **This Request** | **Previous Funds Requested** | **Remaining CDBG Funds** |
|---|---|---|---|---|---|
| | | | | | $0.00 |
| | | | | | $0.00 |
| | | | | | $0.00 |
| | | | | | $0.00 |
| | | | | | $0.00 |
| | | | | | $0.00 |
| | | | | | $0.00 |
| | | | *1* | *2* | *3* |
| | TOTALS | $ - | $ - | $ - | $0.00 |

**Section 3: Authorized Signatures**

I hereby affirm that the information above is true and correct, and the funds requested will be used according to the conditions of the CDBG grant agreement with the State of Missouri.

Typed name: _____ Signature: _____ Date: _____
Typed name: _____ Signature: _____ Date: _____

Only authorized persons may sign the RFF form, and they must do so in the same manner as the signature card.

Preparer: Phone: Email:

**NOTES:**

| CDBG Staff Use Only | |
|---|---|
| RFF Review: | |
| Exp. Review: | |
| Check Date: | |

RFF# 1
Date 1/1/2019
Amount of this Request
$6,500.00

**Grantee Name:** Anytown, MO **Project #** 2019-PF-01

Instructions: Submit the originally signed form to: CDBG Program, ATTN: RFF, Department of Economic Development PO Box 118, Jefferson City, MO 65102. The grantee must keep one copy for their files.

**Section 1: Identification of Program Costs**

| **PAYEES per activity/details** | **PROGRAM ACTIVITIES** (See Grant Contract Agreement. Appendix A /Funding Approval) *Activity Name (list each only once)* | *Number* | **AMOUNT** |
|---|---|---|---|
| Grant Administrator | Administration | 35 | 1000.00 |
| ABC Construction | Sewer | 10 | 2000.00 |
| ABC Construction | Streets | 13 | 1000.00 |
| DEH Construction | Streets | 13 | 2500.00 |
| | | | |
| | | | |
| | | | |
| | Total (must equal Section 2, Total 1) | | $ 6,500.00 |

**Section 2: Activity Budget Status Report**

**PROGRAM ACTIVITIES**

(Enter all CDBG Funded Program Activities Listed on Funding Approval

| **Activity Name** | **Activity #** | **Grant Award** | **This Request** | **Previous Funds Requested** | **Remaining CDBG Funds** |
|---|---|---|---|---|---|
| Administration | 35 | 5,000.00 | 1,000.00 | 0 | 4000.00 |
| Audit | 40 | 500.00 | 0.00 | 0 | 500.00 |
| Engineering Design | 36 | 5,000.00 | 0.00 | 0 | 5000.00 |
| Relocation | 28 | 10,000.00 | 0.00 | 0 | 10,000.00 |
| Streets | 13 | 100,000.00 | 3500.00 | 0 | 96,500.00 |
| Sewer | 10 | 79,500.00 | 2000.00 | 0 | 77,500.00 |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | *1* | *2* | *3* |
| | TOTALS | $ - 200,000.00 | $ - 6,500.00 | $ - 0.00 | $193,500.00 |

**Section 3: Authorized Signatures**

I hereby affirm that the information above is true and correct, and the funds requested will be used according to the conditions of the CDBG grant agreement with the State of Missouri.

Typed name: Clara Clerk Signature: _____ Date: 1/1/2019
Typed name: Conrad Councilman Signature: _____ Date: 1/1/2019

Only authorized persons may sign the RFF form, and they must do so in the same manner as the signature card.

Preparer: Frank Finance Phone: 314-555-1234 Email: finance@anytown.mo

**NOTES:**

| CDBG Staff Use Only | | RFF# | 2 |
|---|---|---|---|
| RFF Review: | | Date | 4/1/2019 |
| Exp. Review: | | Amount of this Request | |
| Check Date: | | | $14,500.00 |

**Grantee Name:** Anytown, MO **Project #** 2019-PF-01

Instructions: Submit the originally signed form to: CDBG Program, ATTN: RFF, Department of Economic Development PO Box 118, Jefferson City, MO 65102. The grantee must keep one copy for their files.

**Section 1: Identification of Program Costs**

| PAYEES per activity/details | PROGRAM ACTIVITIES (See Grant Contract Agreement. Appendix A /Funding Approval) Activity Name (list each only once) | Number | AMOUNT |
|---|---|---|---|
| City Reimbursement for Payment to DEH | Sewer | 10 | 1,000.00 |
| John Smith | Relocation | 28 | 7,500.00 |
| B Construction Co. | Sewer | 10 | 6,000.00 |
| | | | |
| | | | |
| | | | |
| | | | |
| | Total (must equal Section 2, Total 1) | | $ - 14,500.00 |

**Section 2: Activity Budget Status Report**

**PROGRAM ACTIVITIES**

Enter all CDBG Funded Program Activities Listed on Funding Approval

| Activity Name | Activity # | Grant Award | This Request | Previous Funds Requested | Remaining CDBG Funds |
|---|---|---|---|---|---|
| Administration | 35 | 5,000.00 | 0.00 | 1,000.00 | 4,000.00 |
| Audit | 40 | 500.00 | 0.00 | 0.00 | 500.00 |
| Engineering Design | 36 | 5,000.00 | 0.00 | 0.00 | $0.00 |
| Relocation | 28 | 10,000.00 | 7,500.00 | 0.00 | 2,500.00 |
| Streets | 13 | 100,000.00 | 0.00 | 3500.00 | 100,000.00 |
| Sewer | 10 | 79,500.00 | 7,000.00 | 2000.00 | 70,500.00 |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | *1* | *2* | *3* |
| | TOTALS | $ - 200,000.00 | $ - 14,500.00 | $ - 6,500.00 | $179,000.00 |

**Section 3: Authorized Signatures**

I hereby affirm that the information above is true and correct, and the funds requested will be used according to the conditions of the CDBG grant agreement with the State of Missouri.

Typed name: Clara Clerk Signature: _____ Date: 4/3/2019

Typed name: Conrad Councilman Signature: _____ Date: 4/3/2019

Only authorized persons may sign the RFF form, and they must do so in the same manner as the signature card.

Preparer: Frank Finance Phone: 314-555-1234 Email: finance@anytown.mo

**NOTES:**

## ESTABLISHING AND MAINTAINING THE CDBG ACCOUNTING RECORDS SYSTEM

The financial management system used by local government recipients of CDBG funds must satisfy all of the unique requirements of CDBG. In particular, it must satisfy the standards governing a grantee's financial management system outlined in 2 CRF Part 200 and 24 CRF Part 570. These standards require that the recipient's accounting system must:

1. Provide accurate, current, and complete disclosure of the financial status of the CDBG project by eligible program activity;
2. Compile and justify data required in reports submitted to DED;
3. Have records that identify adequately the source and disposition of funds for project activities. (Recipients must be able to trace every CDBG dollar received and prove where it went and for what it was used - an audit trail **must** be established.);
4. Provide effective control over and accountability for CDBG funds, property and other assets, including proper segregation of duties;
5. Compare actual expenditures with budgeted amounts by program activities;
6. Procedures to minimize the amount of time elapsed between the transfer of funds from the US Treasury and the disbursements by the grantee;
7. Have accounting records that are supported by source documentation verifying the “reasonableness, allowability and allocability” of costs
8. Document sources of funding other than CDBG project funds

Recipients may elect either to use their existing accounting system or to use the accounting system described in this chapter. If recipients elect to use their existing accounting system, then they must demonstrate to DED that the system satisfies CDBG standards and requirements and can provide the information described herein. If recipients elect to use the accounting system described below, they should have no difficulty satisfying CDBG requirements and documenting financial decisions related to their CDBG programs. Space is provided on the Authorized Signature Form to indicate which accounting system will be used.

**Financial Management Records**

The records that are required to be maintained by Missouri's state CDBG grant recipients are listed below. These financial management records, or a copy of these records, should be kept at City Hall or the County Office. At a minimum, the following information must be generated in any accounting system utilized for CDBG:

1. Transaction date, description, source document reference and amounts
2. Summary of receipts (e.g., CDBG funds or program income)
3. Summary of disbursements by program activity (eligible program activities are documented in the grant contract)
4. Summary of cash transactions
5. All source documents should be maintained for future review
6. If local and/or other agency funding is part of the funding agreement, then an accounting system (separate ledgers) should be maintained which provides information similar to items noted in 1 through 5 above.

One should keep in mind that the accounting records and procedures have been designed for non-accountants and specifically for use with CDBG projects. It is suggested that recipients go through the example of the CDBG accounting system included herein after they have reviewed the management requirements.

**Document Coding**

Transactions recorded in the system must always be referenced to a source document (e.g., check number, RFF number, an amendment number or the original contract budget award).

**Cash Control/Project Activity Ledger**

Information maintained in the Cash Control/Project Activity Ledger provides a means of:

1. Maintaining a record of CDBG funds to document that funds have been used to meet immediate needs
2. Documenting compliance with the State's cash balance policy
3. Recording the receipt of program income
4. Preparing the RFF and other State financial documents

Transactions should be posted in a timely manner in order to document that the recipient has controlled costs within the amount allocated for each of the approved activities. A separate ledger sheet may be used for each program activity if desired.

The Project Activity Ledger portion of the Cash Control/Project Activity Ledger provides:

1. Means of summarizing disbursements on a periodic basis to facilitate the comparison of actual expenditures to budgeted amounts
2. Documentation needed to report to the State on an activity basis

**Internal Control**

It is essential that recipients establish internal controls in their financial management systems to provide effective control over and accountability for all funds, property and other assets and to ensure that they are used for authorized purposes. Some of the points that recipients should keep in mind when establishing internal controls are listed below.

- Financial management responsibilities should be separate so that no one has complete control over all phases of any significant transaction. ***EX:*** *Person(s) authorized to sign RFFs should be different from the person(s) authorized to write/sign the checks on the account.* An organizational chart, or at the minimum, a written definition of duties and formal system of authorization and supervision should be established to govern financial management responsibilities.
- Verification and reconciliation of cash balances with bank statements should be made by employees who do not handle or record cash or sign checks.
- All CDBG expenditures by the grantee should be approved by the City Council/County Commission through the normal "bill-paying" procedures prior to payment.

**Steps for Establishing a CDBG Financial Management System**

Establishing and maintaining the CDBG financial management system will require recipients to:

1. Decide which accounting system to use and notify DED of this decision on the Authorized Signature Form (SFMO1)
2. Organize the accounting records, including the Cash Control/Program Activity Ledger and, if appropriate, the Other Projects Funds Ledger
3. Use the CDBG eligible activity codes in their records (taken from the grant contract documents)
4. Establish an activity ledger account for each activity listed in the grant agreement (this should be incorporated into the Cash Control/Program Activity Ledger)
5. Establish a separate ledger for each activity, showing contracts entered into and amounts expended (examples of both ledgers are included herein)
6. Record all CDBG financial transactions on the appropriate journal or ledger
7. Establish internal controls in the financial management system

# SAMPLE PROJECT LEDGER

| Date | Transaction | Funds Available | Rff# | Check# | Cash Receipts | Cash Disbursements | Admin | Audits | Eng. Design | Relocation | Streets | Sewer |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Budget | 200000 | | | | | 5000 | 500 | 5000 | 10000 | 100000 | 79500 |
| 6/16 | | | | | | | | | | | | |
| 1/28 | State of Missouri | 6500 | 1 | | 6500 | | | | | | | |
| 1/28 | Grant Administrator | | | 101 | | 1000 | 1000 | | | | | |
| 1/10 | J. Doe Engineering | | | 102 | | 5000 | | | 5000 | | | |
| 2/10 | Newspaper | | | 103 | | 104 | 104 | | | | | |
| 1/4 | Archaeologists, Inc. | | | 104 | | 231 | 231 | | | | | |
| | Balance | 193500 | | | 165 | | 3665 | 500 | | 10000 | 100000 | 79500 |
| | | | | | | | | | 0 | | | |
| 4/25 | State of Missouri | 14500 | 2 | | 14500 | | | | | | | |
| 4/25 | Grant Administrator | | | 105 | | 1000 | 1000 | | | | | |
| 4/27 | John Smith | | | 106 | | 7500 | | | | 7500 | | |
| 4/27 | B Construction Co. | | | 107 | | 6000 | | | | | | 6000 |
| | Balance | 179000 | | | 165 | | 2665 | 500 | 0 | 2500 | 100000 | 73500 |
| | | | | | | | | | | | | |
| 6/8 | Amendment | | | | | | | | | -2500 | | 2500 |
| | Balance | 179000 | | | | | | | | 0 | | 76000 |
| | | | | | | | | | | | | |
| 9/4 | State of Missouri | 111000 | 3 | | 111000 | | | | | | | |
| 9/4 | Grant Administrator | | | 108 | | 2000 | 2000 | | | | | |
| 9/4 | B Construction Co. | | | 109 | | 76000 | | | | | | 76000 |
| 9/6 | C Construction Co. | | | 110 | | 33000 | | | | | 33000 | |
| | Balance | 68000 | | | 165 | | 665 | 0 | 0 | 0 | 67000 | |
| | | | | | | | | | | | | |
| 3/2 | State of Missouri | 66000 | 4 | | 66000 | | | | | | | |
| 3/5 | C Construction Co. | | | 111 | | 65000 | | | | | 64000 | |
| 3/4 | Grant Administrator | | | 112 | | 665 | 665 | | | | | |
| 4/10 | CPA | | | 113 | | 500 | | 500 | | | | |
| | Balance | 2000 | | | 0 | | 0 | 0 | 0 | 0 | 2000 | |
| | | | | | | | | | | | | |
| | 2000 to be deobligated | | | | | | | | | | | |

| Line # | Date | Description |
|---|---|---|
| 1 | 11/20/18 | Set up budgets for total grants and each expense category. (If local matching money is to be used, do not record it here. Keep it on a separate ledger sheet.) |
| 4 | 1/8/19 | Request For Funds (RFF) #1 received from DED, $6500.00 |
| 5 | 1/8/19 | Pay Grant Administrator $1000.00 for administrative fees, Check #101 |
| 6 | 1/9/19 | Pay Engineer $5000.00 for engineering services, Check #102 |
| 7 | 1/15/19 | Pay Newspaper $104.00 for running public notices, Check #103 |
| 8 | 2/04/19 | Pay $231.00 to have cultural resource assessment done, Check #104 |
| 9 | | This line represents a subtotal of all activity-to-date. You may subtotal this ledger whenever it is the most convenient to you. |
| 11 | 4/7/19 | Request For Funds (RFF) #2 received from DED, $14,500.00 |
| 12 | 4/8/19 | Pay Grant Administrator $1000.00 for administrative fees, Check #105 |
| 13 | 4/8/19 | Pay John Smith $7500.00 for relocation costs, Check #106 |
| 14 | 4/15/19 | Pay "B Const. Company" $6000.00 for work-to-date on the sewer, Check #107 |
| 15 | | Subtotal the grant activity-to-date. |
| 17 | 6/08/19 | All the relocation work was finished and $2500.00 was left in its budget. The sewer project was expected to cost more than originally planned. Therefore, a formal amendment was sent in to DED, and approved, to transfer the $2500.00 remaining in the relocation budget to the sewer budget. (Record transfers only if they have been formally amended and approved by DED.) |
| 18 | | Subtotaled the grant activity-to-date. |
| 20 | 8/30/19 | Request For Funds (RFF) #3 received from DED, $111,000.00 |
| 21 | 9/04/19 | Pay Grant Administrator $2000.00 for administrative fees, Check #108 |
| 22 | 9/04/19 | Pay "B Const. Company" $76,000.00 for work on sewer, final bill, Check #109 |
| 23 | 9/06/19 | Pay "C Const. Company" $33,000.00 for work-to-date on the street, Check #110 |
| 24 | | Subtotaled the grant activity-to-date. Note any negative balances. You are allowed to transfer the budgeted amounts between line items, up to 10% of the total grant, up to a $10,000.00 limit, in all line items except audit, administration, and engineering.<br>Money may be transferred out of those three, but not into them. Do not record these transfers unless formally approved by DED. |
| 26 | 3/02/20 | Request For Funds (RFF) #4 received from DED, $66,000.00 |
| 27 | 3/05/20 | Pay "C Const. Company" $65,000.00 for work on streets, final bill, Check #111 |
| 28 | 3/04/20 | Pay Grant Administrator $665.00 for administrative fees, Check #112 |
| 29 | 4/10/20 | Pay CPA $500.00 to perform audit, Check #113 |
| 30 | | Subtotal final grant activity |
| 33 | | $2000.00 of grant money was not used. This will be deobligated.<br>**Note**: If there is any cash on hand at end of grant, it must be returned to DED. |

# PROGRAM INCOME

For the purposes of administering state CDBG grants, it is important to distinguish between two types of income: interest income and program income. **All bank accounts holding grant monies from the State must be non-interest bearing.** However, if interest is earned on CDBG funds it is considered to be interest income, and must be returned to HUD. Contact CDBG if interest is earned. In general, program income is defined as those revenues received by the CDBG recipient during the period that grant assistance is provided for grant-supported activities. For example, if a CDBG recipient has a housing rehabilitation or economic development loan program, the receipt of payment on the principal as well as any earned interest on the loan is considered to be program income. In addition to this form of program income, other specific forms of program income include:

- the proportional share of proceeds from the disposition of real property to the extent to which the property was purchased with CDBG monies (e.g., if CDBG monies were used to pay ninety percent of the acquisition cost of a parcel, ninety percent of the sale price of the property would be considered CDBG program income if the property was sold)
- the share of proceeds from special assessments levied to cover the cost of constructing a public work or facility proportional to the percent of CDBG monies used for construction
- the interest earned from the investment of program income
- the payments of principal and/or interest on loans made with CDBG monies

If the monies are considered program income, grantees **must** inform DED of the receipt of these monies and obtain DED **approval** concerning their use. **Program income must be identified clearly in the recipient's accounting system.** DED may, at its discretion, require CDBG recipients to return program income to the State. When recipients do retain program income, they must disburse program income **prior** to requisitioning additional monies from DED to finance approved community development activities.

Two situations involving program income have special rules. For proceeds derived from the sale of real property acquired with CDBG monies, program income shall be used for community development activities within the general purposes of the Housing and Community Development Act of 1974. However, the CDBG recipient **must obtain prior DED approval** to use program income in this manner. For program income to be received after grant close-out, recipients **must** consult with DED. At its discretion, DED may require that such program income be returned to the State, or allow it to be used by the recipient in other community development activities. A re-use plan for program income may be required to be submitted to DED prior to grant close-out. It may be necessary to undertake an environmental review for any new CDBG activities that are funded with program income.

**Steps**

1. Identify those activities that are likely to produce program income.
2. Review DED procedures regarding the use of program income.
3. Upon receipt of program income, record in the Cash Control/Program Activity Ledger indicating source, date and amount received.
4. Obtain DED approval for applying program income to any new or existing community development activity.
5. For program income derived from a revolving loan fund, request DED determination as to the disposition of program income at grant close-out.
6. After obtaining approval concerning allocation of program income to a CDBG eligible activity, make the appropriate journal entry to your accounting records.

## DED FINANCIAL MANAGEMENT REPORTING

The Request for Funds Form (RFF), described in detail earlier in this chapter, provides DED with frequent financial management information that is useful in monitoring grantees' projects and updating DED's records. Aside from informing DED of the amount of funds being requested, the form indicates the amount of cash that recipients are keeping on hand, payments over $1,000 or more, program income received to date, and the total amount of CDBG funds remaining in the project.

It is important that the Budget Status Report (Section 2 of RFF) reflect the actual expenditures in each line item, submitting amendments or detailed explanations for changes, if necessary. As stated previously, monies may not be transferred between activity line items, which exceed 10% of the total grant award or $10,000, whichever is less, without prior approval by DED through the amendment process. **No funds** may be spent which exceed the awarded amounts in administration, engineering (design and inspection), other professional services, or legal line items without prior DED approval through the amendment process. If smaller revisions of other activities are necessary, please identify and explain the changes in some form of notation in the Notes section at the bottom of the form. The Budget Status Report is an important tracking tool for DED.

**Action Fund (Economic Development Loans) Request for Funds:** RFFs submitted for Action Fund loans must be accompanied by invoices totaling the amount of funds being requested. Copies of the cancelled checks, or proof of payment of all invoices submitted, must be retained by the grant recipient in the financial records for audit purposes.

## RETURN OF OVERPAYMENT OR UNUSED FUNDS

From time to time, it may be necessary to reimburse or return funds to the state for RFFs requested and paid that are in excess of estimated payments. If such a situation occurs, return the overpayment or overdraw amount to the CDBG program at PO Box 118, Jefferson City, MO 65102. Checks should be made payable to State of Missouri – CDBG. This process is not to be confused with that for return of funds due to interest earned on deposited CDBG funds. It is necessary to reconcile return of funds by subtracting the total amount of the return from the previous amount requested column of the appropriate activity on the back of the subsequent RFF to be submitted.

## LOCAL AND OTHER AGENCY MATCH

A primary consideration in the review of CDBG applications is the amount of local and other agency cash and in-kind resources proposed for the project. The Funding Approval form (part of the Grant Agreement) indicates the amount of resources that must be devoted to the project.

Local Cash Recordkeeping: The minimum records to maintain regarding local cash are the date, amount and purpose of each check written from local funds toward the project. It is recommended that local funds not be mixed with CDBG funds in the accounting system.

Other Agency Recordkeeping: Other agency funding is subject to the same audit requirements as CDBG funding. Recordkeeping is to be maintained in accordance with other agency requirements and should be accessible to DED review.

In-Kind (Force-Account) Recordkeeping: This includes non-cash actions such as using the grantee's employees to perform work on the project or to use construction materials from the grantee's stockpile. All force-account work which is paid for with CDBG funds or counted toward local match must be documented with time sheets and/or other verification of cost or value.

## FUNDING APPROVAL/GRANT AGREEMENT AMENDMENT

A funding approval/grant agreement amendment is required to be submitted in triplicate, all with original signatures, under the following conditions:

- All budget revisions between activity lines
- Transfer of **any** amount of funds to any professional services line item
- Request for grant increase, or deobligation of funds remaining at the close of grant
- Request for addition of funds for any activity not listed on funding approval

For any change of scope of the activities which does not involve budget items or which involves other agency or local funds, a letter signed by the city/county official requesting the change is used instead of this amendment form. All grantees should detail the reasons for any change or revision necessitated by the funding approval/grant agreement amendment in the area for "Explanation of Request". This is helpful for us to document the reasons for the change and justify approval/denial of the request. **We are unable to accept RFFs that reflect a negative balance in any line item.** If budget line item changes require drawing more from an activity than is currently allocated, (but for which an amendment is not required) it is important to submit information with the RFF to 1) identify the reason for the difference, 2) denote which line item should be decreased to account for the overage, and 3) award amounts should be updated to reflect the new amounts. If revisions will require a formal amendment, submission of the amendment should precede submission of the RFF to allow processing of the new funding balances in our data systems. Revisions that do not require a formal amendment should be clearly indicated in the Notes of the RFF, and reported to your field representative.

Department of Economic Development

# State of Missouri
## Community Development Block Grant (CDBG) Program
## Funding Approval/Grant Agreement Amendment Request

Grantee Name: _____ Project Number: _____

Address: _____ City, State, Zip: _____

Date of Request: _____ Amendment Request #: _____

Person Completing This Request: _____

*NOTE: In the following, please list all CDBG activities even if they are not included as part of the amended amounts. Please submit THREE (3) signed copies with original signatures to DED.*

| No. | Title of Activity | Existing Budget | Revised Budget Request | Amount Increase/(Decrease) | % |
|---|---|---|---|---|---|
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | | | | 0.00 | |
| | TOTALS | 0.00 | 0.00 | 0.00 | |

Explanation of Request:

This amendment shall be effective on _____, _____. All other terms and conditions of the contract, or any amendments thereto, shall remain unchanged. IN WITNESS WHEREOF, the parties hereto execute this agreement.

_____
City/County Name

_____
Name of Authorizing Authority

_____
Authorized Signature

_____
Title

Department of Economic Development
Division of Business and Community Services

_____
Division Director

_____
Date

## **FINANCIAL MANAGEMENT HELPFUL HINTS**

- Ensure the CDBG general ledger is accurate and current.
- Segregate the duties of writing checks and balancing/reconciling the CDBG account monthly.
- Understand and complete all five steps in the grant payment process referenced on page III-2.
- Grant funds must not remain in the account for more than three days.
- Review the funding approval for accuracy and understand all terms of grant agreement prior to execution.
- To check on status of payments, have the grantee FEIN ready and go to: https://www.vendorservices.mo.gov/vendorservices/VendorPayment/Login/Login.aspx?tid=0&type=1 . **You may also contact the Office of Administration at 573-751-2971 to inquire about receiving automatic email notifications when payments are made.**

# Reporting

## Introduction

As part of the requirements for increased accountability and transparency in federally-funded programs, the US Department of Housing and Urban Development (HUD) requires grantees to identify and demonstrate the results of its programs. HUD's movement to produce streamlined and measurable outcomes and objectives are one of the methods used to evaluate grant performance.

In this chapter we will address the three primary areas of reporting compliance for CDBG programs. Examples of each report follow report descriptions.

- Quarterly reporting for all projects funded with supplemental CDBG disaster appropriations (DI, DN, DT, DS, DP)
- Annual reporting for all CDBG-funded Economic Development projects with proposed **direct** beneficiaries, such as job creation
- Close-out reporting for all CDBG-funded projects with **indirect** beneficiaries
- Remediation Plans/ Expenditure Projections – ensuring timely expenditure of funds and accomplishment reporting

## CDBG Disaster Supplemental Reporting

Quarterly reporting is mandated for all projects funded with CDBG Disaster Supplemental funding (DI, DN, DT, DS, DP). Forms are generated with the appropriate performance measures information based on the project application and the final award of the project. This form is then emailed to grantees for update and submittal each quarter.

The performance measure assigned is based on the activity to be undertaken by the project. Most public facilities projects will use the # of persons benefitting from the activity as the unit of performance. Other projects may require a proposed and per-quarter accounting of the linear feet of public improvement, etc. The performance measure is assigned by HUD and DED, and tracked throughout the system by the "DRGR Activity #" listed on the CDBG Grant Agreement/Funding Approval for the project. Quarterly Reports (QPRs) must address the following:

- Property addresses must be reported quarterly for all acquisitions and demolitions, and race/income data must be reported for all occupants or beneficiaries of direct housing activities
- A summary narrative **must** be submitted each quarter by each grantee, the content of which may be dictated by each individual field representative, in order to aid them in a thorough and timely review of all their area reports.
- Each QPR is a snapshot and should only contain data for the **current quarter**
- Information on beneficiaries is counted by household, not persons in the household

If the activity proposed will benefit persons directly (job creation, job training, housing), the race/ethnicity, income level and head of household information is required to be reported and tracked. Additionally, individual addresses must be submitted for all residential properties directly acquired or demolished with CDBG disaster funds.

## Project funded with Disaster Supplemental Appropriation – Indirect beneficiaries

### Quarterly Performance Report

**Performance Report – Activity**

| **Grant Number:** | **QPR Start Date:** |
|---|---|
| **Grantee Name:** | **QPR End Date:** |

DRGR Grantee Activity Number: DRGR Activity Type:

| Performance Measure | Proposed Total | Actual Total for Quarter | Low | Mod |
|---|---|---|---|---|
| # of person benefitting | | | | |
| | | | | |

| | |
|---|---|
| Total Activity Budgeted, Disaster Recovery Grant: | |
| Total Activity Funds Drawn for quarter: | |

**Activity Progress Narrative:**

## Project funded with Disaster Supplemental Appropriation – Direct beneficiaries

| **Grant Number:** | **QPR Start Date:** |
|---|---|
| **Grantee Name:** | **QPR End Date:** |
| **DRGR Grantee Activity Number:** | **Activity Type:** |

Please enter address of units assisted this quarter. Tab to insert additional lines.

| Street | City | County | Zip |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

| | | | Income Level | | Female HOH | Race/Ethnicity* |
|---|---|---|---|---|---|---|
| **Performance Measure** | **Proposed** | **Actual for quarter** | **Low** | **Mod** | | |
| # of housing units | | | | | | |
| # of households Benefitting | | | | | | * enter in table below |

| | Beneficiary | Hispanic |
|---|---|---|
| White: | | |
| Black/African American: | | |
| Asian: | | |

| | | |
|---|---|---|
| American Indian/Alaskan Native: | | |
| Native Hawaiian/Other Pacific Islander: | | |
| American Indian/Alaskan Native & White: | | |
| Asian & White: | | |
| Black/African American & White: | | |
| Am. Indian/Alaskan Native & Black/African Am.: | | |
| Asian & Native Hawaiian/Other Pacific Islander: | | |
| All Others: | | |
| Totals (must match # of households benefitting for quarter – above) | | |

**Activity Progress Narrative:**

**Reporting for Projects Funded with Annual CDBG Allocation**

**Direct beneficiaries.** In years past, close-out reporting of CDBG projects was sufficient to demonstrate the results and impact of individual CDBG projects on the citizens of its community. However, federal reporting requirements now mandate that projects proposing direct benefits must annually report on the progress toward proposed performance. Therefore, all projects with a proposed direct benefit to persons through job creation or housing must report annually on the beneficiaries assisted for the program year. Grantees will be mailed the reporting form annually in April for report of data collected from the previous April 1 to March 31 (the prior program year). Reports are due back by May 15.

**Indirect beneficiaries.** For all public facilities projects, proposed measures are captured at the beginning of the project on Form U, and actual results are reported at closeout via the closeout forms. Public facilities projects generally do not benefit any person until construction or improvement is complete.

# MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT
# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

| GRANTEE: | PROJECT NUMBER: |
|---|---|

| Activity | Outcome Indicators | PROPOSED NUMBER | NUMBER REPORTED IN PREVIOUS YEARS | TOTAL # FOR PERIOD ONLY* 04/01/19 -03/31/20 |
|---|---|---|---|---|
| **A. Jobs Created** | **Total number of Jobs:** | | | |
| | a. Of those, number with employer-sponsored healthcare | | | |
| **B. Jobs Retained** | **Total number of jobs:** | | | |
| | a. Of those, number with employer-sponsored healthcare | | | |

## ANNUAL DATA REPORTING FOR CDBG ACTIVITIES

| | | Please list the number and percentage of beneficiaries who are: | | |
|---|---|---|---|---|
| **C. *Type of Jobs Created 04/01/19 to 03/31/20* (refer to below job categories)** | **Total # LMI Jobs** | **Low/Mod Income Between 80%-50%** | **Low Income Between 50%-30%** | **Very Low Income 30% and below** |
| | | | | |
| | | | | |

** Officials and Managers (OM) ; Craft Worker – Skilled (CW); Professional (P); Operatives – Semi-Skilled (OP); Technicians (T); Laborers – Unskilled (LB); Sales (S); Service Workers (SW); Office and Clerical (OC)*

| D. Race/Ethnicity Data | | |
|---|---|---|
| | Total Direct Beneficiaries | Hispanic Direct Beneficiaries |
| White: | | |
| Black/African American: | | |
| Asian: | | |
| American Indian/Alaskan Native: | | |
| Native Hawaiian/Other Pacific Islander: | | |
| American Indian/Alaskan Native & White: | | |
| Asian & White: | | |
| Black/African American & White: | | |
| Am. Indian/Alaskan Native & Black/African Am.: | | |
| Asian & Native Hawaiian/Other Pacific Islander: | | |
| All Others: | | |
| **TOTAL** | | |
| Total # with immediate Prior Unemployment | | |

## Example 4: Reporting for Regular CDBG Indirect Beneficiaries

## FY2018 APPLICATION: FORM U – DATA COLLECTION FOR CDBG ACTIVITIES

**Applicant:**

| Category | Corresponding Activity Data Required | | |
|---|---|---|---|
| Community Facility | A | | |
| Downtown Revitalization | A | | |
| Microenterprise/Economic Development | C,D and/or E | | |
| Other Public Needs: | | | |
| Rural Affordable Housing (see RAH application) | | | |
| ADA | A | **DATA** | |
| BSD | A | **Collected at time of Application** | **Collected at time of Closeout** |
| Demolition | B | | |
| Water/Sewer (Engineering Plans-Specs) | A | | |

| Activity | Outcome Indicators | PROPOSED | ACTUAL |
|---|---|---|---|
| E. Public facility, Downtown Revitalization or Public Infrastructure activities | **Number of persons with:** | | |
| | a. new access to benefit, or | | |
| | b. improved access to benefit | | |
| | c. improved quality of benefit | | |
| F. Demolition Only | **Number of demolitions:** | | |
| **Economic Development Activities –** For jobs created or retained, select from only among the following Economic Development Administration(EDA) job category definitions:<br>Officials and Managers (OM) — Craft Worker – Skilled (CW)<br>Professional (P) — Operatives – Semi-Skilled (OP)<br>Technicians (T) — Laborers – Unskilled (LB)<br>Sales (S) — Service Workers (SW)<br>Office and Clerical (OC) | | | |
| G. Jobs Created | **Total number of Jobs:** | | |
| | a. Of those, number with employer-sponsored healthcare | | |
| | b. **Type of jobs created | | |
| | c. Number unemployed before taking job | | |
| H. Jobs Retained | **Total number of jobs:** | | |
| | a. Of those, number with employer-sponsored healthcare | | |
| | b. **Type of jobs created | | |
| I. Businesses Assisted | **1. Total businesses assisted, number of:** | | |
| | a. New businesses | | |
| | b. Existing businesses | | |
| | Of those, number of expansions: | | |
| | Number of relocations: | | |
| | c. DUNS # of business(es) | | |

**Remediation Plans for At-Risk CDBG Projects**

On October 31, 2011, the Inspector General for HUD issued an audit that found that the CDBG program needed improved oversight of long-standing, open activities with no recent draws or reported accomplishments. To this end, HUD now requires justification and remediation action by the grantee (DED) for the following sub-grantee project activities identified as "at-risk":

- Activities that have had no draws for a year
- Activities that have not reported accomplishments for three years
- Activities have 80 percent of their funding amount disbursed and no accomplishments reported

For all projects currently funded that meet one or more of the thresholds mentioned above, the activity or activities in the funded grant will be required to submit justification for the delay in progress or closeout of the respective grant. Your CDBG field representative will notify you when/if your project falls under one of the at-risk thresholds. Your project will work directly with your field representative to communicate the reasons for delay, the action which will be taken by the sub-grantee to remedy the delay in draw or reporting, and an expected date when the issue will be resolved. If these specific requirements are not provided in sufficient scope or in sufficient time-frame, HUD or DED may revoke remaining funding.

**Timely Expenditure of Funds**

Grant applicants are required to submit a Schedule of Projected Expenditures as part of the CDBG application process. This schedule outlines by quarter and by activity the estimated timeline for expenditures of the grant award, if selected for funding. Grantees are required to submit any updates to expenditure projections on a quarterly basis, or in any event where the original timeline for full expenditure will be revised to a future date, such as amendments or increases to the original award.

**Summary**

Due to increased reporting and accountability by HUD, it is important that grantees and project administrators design and implement necessary data collection procedures to prepare ahead to meet reporting deadlines. Determine the level of reporting required by your specific project (based on the funding source), and develop deadlines and communication structures for ensuring the data is submitted accurately on time via the forms provided.

# MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT
# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

## FORM B – EXPENDITURE PROJECTIONS

| PROJECTED EXPENDITURES BY QUARTER END (FROM CDBG ACTIVITIES LISTED ON FUNDING APPROVAL): | Administration | _____ | _____ | _____ | _____ | _____ | _____ |
|---|---|---|---|---|---|---|---|
| March 2019 | | | | | | | |
| June 2019 | | | | | | | |
| September 2019 | | | | | | | |
| December 2019 | | | | | | | |
| March 2020 | | | | | | | |
| June 2020 | | | | | | | |
| September 2020 | | | | | | | |
| December 2020 | | | | | | | |
| March 2020 | | | | | | | |
| June 2020 | | | | | | | |
| September 2020 | | | | | | | |
| December 2020 | | | | | | | |
| March 2020 | | | | | | | |
| June 2020 | | | | | | | |
| **TOTAL** | | | | | | | |

# CHAPTER IV
# Environmental Review

## TABLE OF CONTENTS

INTRODUCTION ..... 2
HUD/CDBG ENVIRONMENTAL LANGUAGE ..... 3
COMMONLY USED ENVIRONMENTAL ACRONYMS ..... 5
STEPS IN THE CDBG ENVIRONMENTAL REVIEW PROCESS ..... 7
*Step 1—Project Aggregation* ..... *7*
*Step 2—Environmental Review Responsibilities* ..... *7*
*Step 3—Determine the Level of Review for the project as a whole* ..... *8*
*Step 4—Environmental Review Packet Completion* ..... *11*
*Step 5—Publication/Posting* ..... *11*
*Step 6—Completion of RROF/C Form and Affidavit of Publication* ..... *11*
*Step 7— State Comment Period* ..... *12*
*Step 8— Obtaining Environmental Clearance* ..... *12*
TIMELINE FOR CEST/EA PROJECTS ..... *13*
FORMATTING AND DOCUMENT REQUIREMENTS ..... 15
PUBLIC PARTICIPATION ..... 15
PRELIMINARY ENGINEERING & ARCHITECTURAL REPORTS ..... 16
CONDITIONS OF APPROVAL ..... 16
TIERING (24 CFR §58.15) ..... 17
MULTI-YEAR/PHASED PROJECTS [24 CFR §58.32(D)] ..... 18
OTHER FEDERAL/STATE/LOCAL AGENCY ENVIRONMENTAL REPORTS (24 CFR §58.14) ..... 18
CDBG ENVIRONMENTAL IMPACT CHECKLIST ..... 19
AMENDING THE ORIGINAL ENVIRONMENTAL REVIEW RECORD (24 CFR §58.47) ..... 20
PROPERTY ACQUISITION ..... 21
OPTION AGREEMENT TO PURCHASE REAL ESTATE TEMPLATE ..... 22
ECONOMIC DEVELOPMENT PROJECTS ..... 24
ER SELF-MONITORING CHECKLIST REVIEW ..... 25

**ENVIRONMENTAL NOTICES, COMMENT PERIODS, RROF, AND AUGF ..... 29**
ENVIRONMENTAL PUBLIC NOTICES AND COMMENT PERIODS ..... 30
EARLY PUBLIC FLOODPLAIN/WETLANDS NOTICE TEMPLATE ..... 32
NOTICE OF EXPLANATION FLOODPLAIN/WETLANDS NOTICE TEMPLATE ..... 33
NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOI) TEMPLATE ..... 35
COMBINED NOTICE (FONSI & NOI) TEMPLATE ..... 37
DISTRIBUTION LIST FOR ENVIRONMENTAL NOTICES ..... 39
INSTRUCTIONS FOR COMPLETING THE REQUEST FOR RELEASE OF FUNDS & CERTIFICATION FORM (RROF&C) ..... 41
PERMISSIBLE BASES FOR OBJECTIONS ..... 44

# INTRODUCTION

All projects and related activities proposed with CDBG funds are subject to the provisions of the *National Environmental Policy Act of 1969*, as amended (NEPA), which established national policies, goals, and procedures for protecting, restoring and enhancing environmental quality. In addition to NEPA requirements, CDBG-assisted projects are also subject to other related laws and Federal, State, and local authorities addressed in this chapter.

***Procedures within Federal government programs must ensure that environmental information is available before decisions are made and before actions are taken.*** Responsible Entities (RE), as defined under HUD regulation, are required to follow specific procedures for carrying out Federal environmental review responsibilities as specified in **24 CFR 58** A determined effort should be made to become familiar with all aspects of 24 CFR Part 58.

*EVERY project requires some level of environmental review.* The RE is responsible for evaluating how the project could affect the environment and what impacts the environment may have on the project, including short term, cumulative and long term impacts. The environmental review is a means by which we can enhance the quality of projects, protect the environment, and improve the lives of people who will benefit. **The environmental review, especially when started *EARLY*, will save time and money in the long run.**

*Cost- benefit considerations* – When evaluating proposed project activities or site selection, always be aware of costs that may be associated with environmental conditions. These costs may include, but are not limited to, flood hazard mitigation, noise attenuation, contamination remediation, explosive and flammable hazard mitigation, asbestos and/or lead paint abatement, historic restoration, and others. It is important to consider environmental conditions and evaluate alternatives before selecting a site.

| | |
|---|---|
| **BE AWARE!** | **The Responsible Entity and its other parties to the project must not obligate CDBG funds or expend funds from *any* source, private or otherwise, for use in a CDBG-assisted project; no new construction, excavation, demolition, rehabilitation, repair, modification, or property acquisition, including all types of easements, must commence, nor commitment made to undertake such activities, until the environmental review is complete and the MO Department of Economic Development has issued a formal release of funds/environmental approval.** ***FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL JEOPARDIZE CDBG FUNDS FOR USE IN YOUR PROJECT*** |

| | |
|---|---|
| **BE AWARE!** | **Check the CDBG website all ER related forms**<br>https://ded.mo.gov/programs/cdbg/grant-information#mini-panel-cdbg-grant-information3! |

# HUD/CDBG ENVIRONMENTAL LANGUAGE

Below are key HUD environmental terms. Knowledge of the terms and language within HUD's Part 58 regulation will aid in learning HUD environmental requirements, ensuring communication is clear among all parties involved. An asterisk ***** indicates additional information is provided later in the chapter.

**Activity –** Action by an applicant, grantee, or sub-recipient in a CDBG-assisted project regardless if the activity is paid with CDBG or non-CDBG funds. See Project Aggregation below, for additional information.

**Area of Potential Effect –** Geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.

**Certifying Officer –** Chief elected official, usually a presiding commissioner, mayor, or village chairperson, authorized to execute the *Request For Release of Funds and Certification* form, assumes role of *Responsible Federal Official* under NEPA and related Federal laws and authorities, and accepts jurisdiction of the Federal Courts on behalf of the Responsible Entity in environmental matters.

*** Conditions for Environmental Approval** (Mitigation Measures Considered and Recommended) – Measures to reduce potential impacts such as avoiding certain actions, limiting the degree or magnitude of an action and its implementation, and rectifying the impact through repair, rehabilitation, and/or restoration of the affected environment.

*** Environmental Assessment (EA)** – Concise public document exhibiting compliance with NEPA and providing evidence and analysis of a more complex review resulting in a determination of a Finding of No Significant Impact (FONSI), or a Finding of Significant Impact.

*** Environmental Impact Statement (EIS)** – Highest level of review required when a project is determined to have a potentially significant impact on the human environment. Typically an environmental assessment (EA) is completed first, resulting in a Finding of Significant Impact therefore warranting an EIS. However, if significant impacts are anticipated or known early in the project planning process, an EIS could be prepared without first completing an EA.

*** Environmental Review Record (ERR)** – Concise public record containing original documentation related to the environmental review, decision-making, and activities undertaken in a project. The ERR must be available to the public upon request at the RE location; County Courthouse or City/Village offices.

**Human Environment** – Natural and physical environment and its relationship with people.

**Impacts** –

- Direct - Impacts caused by the actions in a project which take place at the same time in the same location.
- Indirect – Secondary effects caused by project actions occurring later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other impacts related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.
- Cumulative Impacts – Resulting when effects of an action are added to or interact with other effects in a particular place, within a particular time. Cumulative impacts accumulate over time, from one or more sources, and can result in degradation of valuable resources. Cumulative impact analysis should focus on the combined effects and resulting environmental damage.

- **Project** – Activity or group of activities designed to accomplish, in whole or in part, a specific objective; what must be done in order to meet the particular needs of beneficiaries.

*** Project Aggregation** – Grouping together and evaluating all individual activities related on a geographical or functional basis or that are logical parts of a contemplated action, regardless of funding source. *Example*:

City's proposal to construct a new municipal water system including a water treatment facility and elevated water tank funded by CDBG and distribution lines proposed with USDA funds. The project goal is safe, reliable water for the City. Although funded by two different sources, the activities are functionally related and both must be reviewed as a single project in order to accomplish the goal.

**Release of Funds** – Official CDBG issuance of environmental review approval for a project. The release of funds is the State's response to an RE's submission of the Request For Release of Funds and Certification form (RROF/C).

*** Request For Release of Funds/Certification (RROF/C)** – Form HUD-7015.15 – Completed only if the project is determined either (1) Categorically Excluded Subject To (CEST) review under authorities listed at 58.5, and does not convert to Exempt; or (2) the project requires an Environmental Assessment (EA). An RE submits the RROF/C to CDBG, requesting release of funds and approval to use such funds. Submission of the form must occur no earlier than one day after the expiration of the local comment period for the appropriate notice; Notice of Intent To Request Release of Funds for a CEST level of review, or the Combined Notice (FONSI) for an EA level of review. The most current RROF/C form must be submitted. The originally-signed form must be contained to one page – front and back, not two separate pages.

**Responsible Entity (RE)** – For purposes of the State-administered CDBG program, the RE is always a unit of general local government assuming environmental responsibility for a project proposed for or funded with CDBG assistance, including certification of the RROF/C, with the assurance that any conditions, procedures, and requirements resulting from the environmental review are incorporated into project plans and successfully implemented.

**Scope** – The range of actions, alternatives, and impacts to be considered in an environmental assessment (EA).

*** Statutory Checklist** – On its own, a document used for CEST, a lower level of review to address environmental compliance required by other Federal laws, implementing regulations, Executive Orders, and for other HUD compliance requirements.

**Sub-recipient/sub-applicant** – For the State-administered CDBG program, this could include a State-recognized non-profit entity, public water or sewer district, fire or ambulance district, or for-profit business or developer responsible for notifying the RE immediately if changes or alternatives are proposed in the project.

*** Tiering** – Appropriate when evaluating a project in early stages of development or when site-specific analysis or mitigation is not currently feasible and a narrower or focused analysis is better done at a later date.

# COMMONLY USED ENVIRONMENTAL ACRONYMS

**AAI –** All Appropriate Inquiries (US EPA)

**ACHP –** Advisory Council on Historic Preservation

**ACM –** Asbestos Containing Material

**ADT –** Average Daily Traffic

**AICUZ –** Air Installation Compatible Use Zone

**APE –** Area of Potential Effect

**APZ –** Accident Potential Zones

**ASD –** Acceptable Separation Distance

**AST –** Aboveground Storage Tanks

**ASTM –** American Society for Testing and Materials

**BMP –** Best Management Practices

**B/VCP –** Brownfields/Voluntary Cleanup Program (DNR)

**CAA –** Clean Air Act

**CDBG –** Community Development Block Grant

**CDC –** Center for Disease Control

**CENST –** Categorically Excluded Not Subject To

**CEST –** Categorically Excluded Subject To

**CERCLA –** Comprehensive Environmental Response, Compensation and Liability Act

**CFR –** Code of Federal Regulations

**CEQ –** Council on Environmental Quality

**CSR –** Code of State Regulations

**CWA –** Clean Water Act

**DED –** MO Department of Economic Development

**DNL –** Day Night (average sound) Level

**DNR –** MO Department of Natural Resources

**DOC –** MO Department of Conservation

**DOE –** United States Department of Energy

**EA –** Environmental Assessment

**EIS –** Environmental Impact Statement

**EJ –** Environmental Justice

**EO –** Executive Order

**EPA –** United States Environmental Protection Agency

**ESA –** Endangered Species Act

**ERR –** Environmental Review Record

**FAA –** Federal Aviation Administration

**FEMA –** Federal Emergency Management Agency

**FIRM –** Flood Insurance Rate Map

**FONSI –** Finding of No Significant Impact

**FOSI –** Finding of Significant Impact

**FPPA –** Farmland Protection Policy Act

**FR –** Federal Register

**HAP –** Hazardous Air Pollutant

**HUD –** United States Department of Housing and Urban Development

**LBP –** Lead Based Paint

**LESA –** Land Evaluation and Site Assessment

**MOA –** Memorandum of Agreement

**MODOT –** MO Department of Transportation

**MOU –** Memorandum of Understanding

**NAAQS –** National Ambient Air Quality Standards

**NAL –** Noise Assessment Location

**NBC –** National Building Code

**NEPA –** National Environmental Policy Act

**NESHAP –** National Emission Standards for Hazardous Air Pollutants

**NFIP –** National Flood Insurance Program

**NHPA –** National Historic Preservation Act

**NOAA –** National Oceanic Atmospheric Administration

**NOI/RROF –** Notice of Intent to Request Release of Funds

**NPDES –** National Pollutant Discharge Elimination System

**NPL –** National Priority List

**NPS –** National Park Service

**NRCS –** National Resources Conservation Service, USDA

**NRI –** National Rivers Inventory

**NWI –** National Wetlands Inventory

**OSHA –** Occupational Safety and Health Act

**PA –** Programmatic Agreement

**PAR –** Preliminary Architectural Report

**PER –** Preliminary Engineering Report

**RAP –** Remedial Action Plan

**RCRA** – Resource Conservation and Recovery Act

**RCZ –** Runway Clear Zones (also known as Runway Protection Zones)

**RE –** Responsible Entity (CDBG applicant or grantee)

**REC –** Recognized Environmental Condition

**RPC –** Regional Planning Commission

**RPZ –** Runway Protection Zones (also known as Runway Clear Zones)

**RROF/C –** Request for Release of Funds and Certification

**RSMo –** Missouri Revised Statute

**SBC –** Standard Building Code

**SDWA –** Safe Drinking Water Act

**SEMA –** MO State Emergency Management Agency

**SFHA** – Special Flood Hazard Area

**SHPO –** State Historic Preservation Office

**SIP –** State Implementation Plan

**SWD –** Storm Water Discharge

**SWPPP –** Storm Water Pollution Prevention Plan

**THPO -** Tribal Historic Preservation Officer

**TMDL –** Total Maximum Daily Loads

**TRI –** Toxic Release Inventory

**UBC –** Uniform Building Code

**UST –** Underground Storage Tank

**URA –** Uniform Relocation Act

**USACE –** United States Army Corps of Engineers

**USDA –** United States Department of Agriculture

**USDA RD –** Rural Development - United States Department of Agriculture

**USFWS –** United States Fish and Wildlife Service

**USGS –** United States Geological Survey

**WSR –** Wild and Scenic River

# STEPS IN THE CDBG ENVIRONMENTAL REVIEW PROCESS

Step 1—Project Aggregation

The recipient should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective. This includes evaluating the entire project area, regardless of the funding source for any project activities.

The project description is critical in determining the level of environmental review required. A cold reader should clearly understand the scope, scale, nature and extent of a proposed project from the description. ***Project descriptions should remain virtually identical on all forms and correspondence.*** At a *minimum*, the project description should contain the following:

1. ALL proposed project activities by all funding sources, described in detail
2. Entire project scope and all phases of the project from beginning to end
3. Exact project location(s)/area(s), supported by a locational map
4. Color photographs, site plans, project plans, renderings and maps (e.g., topographic, aerial)
5. Total project costs by all funding sources including in-kind (donated labor and materials) activities
6. Existing environment on and a around project site and how it is expected to change due to a project
7. Temporary impacts anticipated by construction activities and a timeline for construction
8. Other information as recommended by CDBG, environmental agencies, and project professionals

| | |
|---|---|
| **BE AWARE!** | **A project is the aggregation of all geographically & functionally related activities that accomplish a goal, becoming the basis for the environmental review. Projects cannot be parsed into individual activities to enable separate, small-scale reviews. Rather, the project as a whole dictates the level of review required.** |

Step 2—Environmental Review Responsibilities

Entities eligible to receive CDBG funds from the State are local governments. These units of local government assume the role of Responsible Entity (RE) with respect to environmental reviews.

For CDBG awards, the chief elected official assumes the role of environmental "certifying officer" and accepts full responsibility for the completeness and accuracy of the reviews. The chief elected official must sign all certifications and findings. This environmental duty may not be delegated, although local staff, consultants, and/or State resources may provide technical assistance to support local efforts.

However, an environmental preparer can be designated to complete the ER forms and gather documentation, with review and final approval by the RE certifying officer. *Due to the complexities of the process and weight of the responsibility, please choose the ER preparer wisely!*

**WHAT DOES IT TAKE TO BE AN ENVIRONMENTAL REVIEW PREPARER?**

**Knowledge** of HUD/CDBG program and NEPA compliance requirements through previous grants management and regular participation at CDBG trainings; local environmental issues; rural community and regional needs; and available resources.

**Time** to conduct site visits; contact and consult with environmental regulatory agencies; analyze data and information; prepare required forms and paperwork accurately; communicate regularly with the RE; keep the review process moving

**Positive partnerships** with the RE, CDBG staff, community resource agencies, and Federal and State environmental regulatory and funding agencies.

**Resources** such as current CDBG forms, manuals, and training materials; varied communication methods and reliable means of transportation.

**Flexibility** to be available to REs at times that fit their schedules and needs.

**Innovativeness** to recognize and address the unique needs of each community and the ability to make the most of limited resources available.

**Desire** to ensure projects do not adversely impact the environment: the environment is compatible with the proposed project and all related activities; compliance is met with NEPA and Part 58 requirements.

**PRIDE** in ensuring work is complete, concise, neat, organized, and free of errors.

- **Commonly Used Options for Environmental Preparer:**
  1. Use of existing RE (county/city) staff persons (engineer, planner, public works, city administrator, economic or community developer, county clerk, etc.)
  2. Local Regional Planning Commissions & Regional Councils of Governments
  3. Private Grant Consultants & Grant Administrators
  4. Other Federal or State Environmental and/or Funding Agencies
  5. Licensed/certified Engineers, Planners and/or Architects
  6. Private Environmental Consultants/Agencies

| | |
|---|---|
| **BE AWARE!** | **If CDBG funds are proposed to pay for any contract - including environmental studies and services - the RE must follow CDBG procurement methods. If CDBG funds are not proposed, then RE procurement methods apply.** |

Step 3—Determine the Level of Review for the project as a whole
24 CFR Part 58 provides guidance for conducting the environmental review process. Every CDBG project requires some level of environmental review. The level of effort needed to prepare a review and the depth of analysis within should be proportional to the size and complexity of the proposed project. There are five levels of environmental review to consider:

- **Exempt Activities (24 CFR 58.34)**

  Exempt activities have no physical impact or result in no physical change on the environment, and therefore do not require and environmental review. Funds from any source may be used for Exempt projects once the Packet is completed and submitted to CDBG. The following activities are Exempt under §58.34:

  (1) Environmental and other studies, resource identification and development of plans and strategies
  (2) Information and financial services
  (3) Administrative and management activities
  (4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs
  (5) Inspections and testing of properties for hazards or defects
  (6) Purchase of insurance
  (7) Purchase of tools
  (8) Engineering or design costs
  (9) Technical assistance and training

(10) *Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration (See Exemptions related to disaster and imminent threat below)

(11) Payment of principal and interest on loans made or obligations guaranteed by HUD

(12) *Any of the categorical exclusions listed in §58.35(a) provided there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5. (See Converting to Exempt below)

***Exemptions related to disaster and imminent threat*** – For project activities exempt per 24 CFR 58.34(a)(10), documentation of environmental conditions and project activities must be completed prior to project implementation. Contact CDBG staff for documentation requirements under 24 CFR 58.34(a)(10).

- **Categorically Excluded Activities NOT SUBJECT TO §58.5 (CENST) (58.35(b))**

HUD has determined the following activities do not alter any conditions requiring a review of compliance determination under Federal laws and authorities cited in §58.5

(1) Tenant-based rental assistance

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations

(5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy-downs, and similar activities that result in the transfer of title

(6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact

(7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under §58.47

- **Categorically Excluded Activities SUBJECT TO §58.5 (CEST) (58.35)(a))**

HUD has determined the following activities do require a review of compliance determination under Federal laws and authorities cited in §58.5

(1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

(i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;

(ii) In the case of multifamily residential buildings:

(a) Unit density is not changed more than 20 percent

(b) The project does not involve changes in land use from residential to non-residential

(c) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation

(iii) In the case of non-residential structures, including commercial, industrial and public buildings:

(a) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent

(b) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another

(4)

(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or combination in between:

(ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site

(iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section)

(5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use

(6) Combinations of the above activities

***Converting to Exempt*** **–**CEST projects convert to Exempt if, after completing a Statutory Checklist, there are no circumstances requiring compliance or compliance is fully met. Projects requiring tiering, the HUD 8-Step decision making process, or any other compliance or mitigation cannot be converted to Exempt.

- **Environmental Assessment (EA) (24 CFR 58.36)**

If a project is not Exempt or Categorically Excluded, an *Environmental Assessment (EA)* is required. The purpose of the EA is to determine the significance of direct and indirect environmental effects of a project and to assess alternative means to achieve an RE's objectives. Once actual and potential impacts of each project alternative are identified, the RE must then assess if mitigation measures are needed to undertake the project. It is at this point the RE is capable of determining if the project is generally feasible, with the ability to identify the most suitable project alternative to meet the needs of the RE and its beneficiaries. If significant impacts are anticipated with no reasonable means of mitigation apparent, the RE may reject the project or complete an Environmental Impact Statement (EIS). In all circumstances, the completed EA must provide sufficient evidence and analysis for determining whether to prepare an EIS.

- **Environmental Impact Statements (EIS) (24 CFR 58.37)**

In addition to the four most common classifications, there is also an Environmental Impact Statement (EIS), the highest level of review. This comprehensive review is for those projects that will have a significant environmental impact in terms of context and intensity. These projects are generally beyond the scope of those completed by recipients working in conjunction with the Department of Economic Development. If a project results in a Finding of Significant Impact and the RE does not wish to reject the project, please contact CDBG for consultation and guidance.

***EIS projects***– Projects involving 2,500 or more beds or housing units may require the preparation of an EIS. This includes sewer and water projects that would result in additional capacity to support 2,500 or more housing units. New construction of projects involving a noise-sensitive land use with an unacceptable level of noise (≥ 75 dB) may also require the preparation of an EIS.

Step 4—Environmental Review Packet Completion

Once the complete scope and appropriate level of review for a project has been determined, a recipient must complete the appropriate Environmental Review Forms and submit them and any other necessary information that is required to fully document the environmental review to CDBG. This information is referred to as the Environmental Review Record (ERR). The ERR will vary in size. The project aggregation and the determination of level of review will help determine the appropriate ERR documentation. Additional source documentation, notices, RROF/C Form, and other information, as applicable must be provided and included in the ERR, particularly for projects that require a CEST or EA review.

- Exempt- (projects consisting of Exempt activities only) Cover Sheet, Determination of Level of Review Form, Finding of Exempt Activity(to be completed for the project as whole), and 58.6 Checklist
- CENST- Cover Sheet, Determination of Level of Review Form, Finding of Categorical Exclusion Not Subject To Form, and 58.6 Checklist
- CEST- Cover Sheet, Determination of Level of Review Form, Finding of Exempt Activities, 58.6 Checklist, Statutory Checklist, and appropriate documentation.
- EA- Cover Sheet, Determination of Level of Review Form, Finding of Exempt Activities, Environmental Assessment, and appropriate documentation.

The ERR is a legal document and the best and often only defense to prove compliance with applicable laws and regulations. The result should be a complete, yet concise record supporting each step of the environmental process ending in the final determination of the level of impact.

| | |
|---|---|
| **KEEP IN MIND!** | **CDBG forms and guidance cannot possibly be tailored to meet the needs of every project. Modify your review and explanations to adequately explain your particular project. Document all compliance relevant to your particular project.** |

- **CEST or EA level projects consisting of exempt activities:**

Projects requiring a higher level of review will inevitably consist of some exempt activities (24§58.34) that need to take place *before* the "Authority to Use Grant Funds" is issued (i.e. engineering design, grant administration, etc.). Because of their status as exempt, funds may be expended for these activities and they may begin prior to completion of the ER process. Complete a "Finding of Exempt Activities" Form for all exempt activities prior to their initiation, then begin the environmental review process to examine environmental impacts of all other proposed activities.

Step 5—Publication/Posting

Projects that require a CEST or EA review also require the publication or posting of a Notice of Intent to Request Release of Funds (NOI/RROF) notice after the ER is finalized and signed by the RE certifying officer.

For CEST projects, a 7 day comment local comment period will follow publication of the Notice (10 days if posting). For EA projects, a 15 day comment local comment period will follow publication of the Notice (18 days if posting).

Step 6—Completion of RROF/C Form and Affidavit of Publication

Projects that require a CEST or EA review must submit a Request for Release of Funds and Certification, affidavit of publication of the Notice, and proof of distribution of the notice to environmental agencies and Tribes to DED no earlier than the day after the publication period has ended. A failure to complete RROF/Certification Form correctly will result in the Department requesting that the form be revised and resubmitted

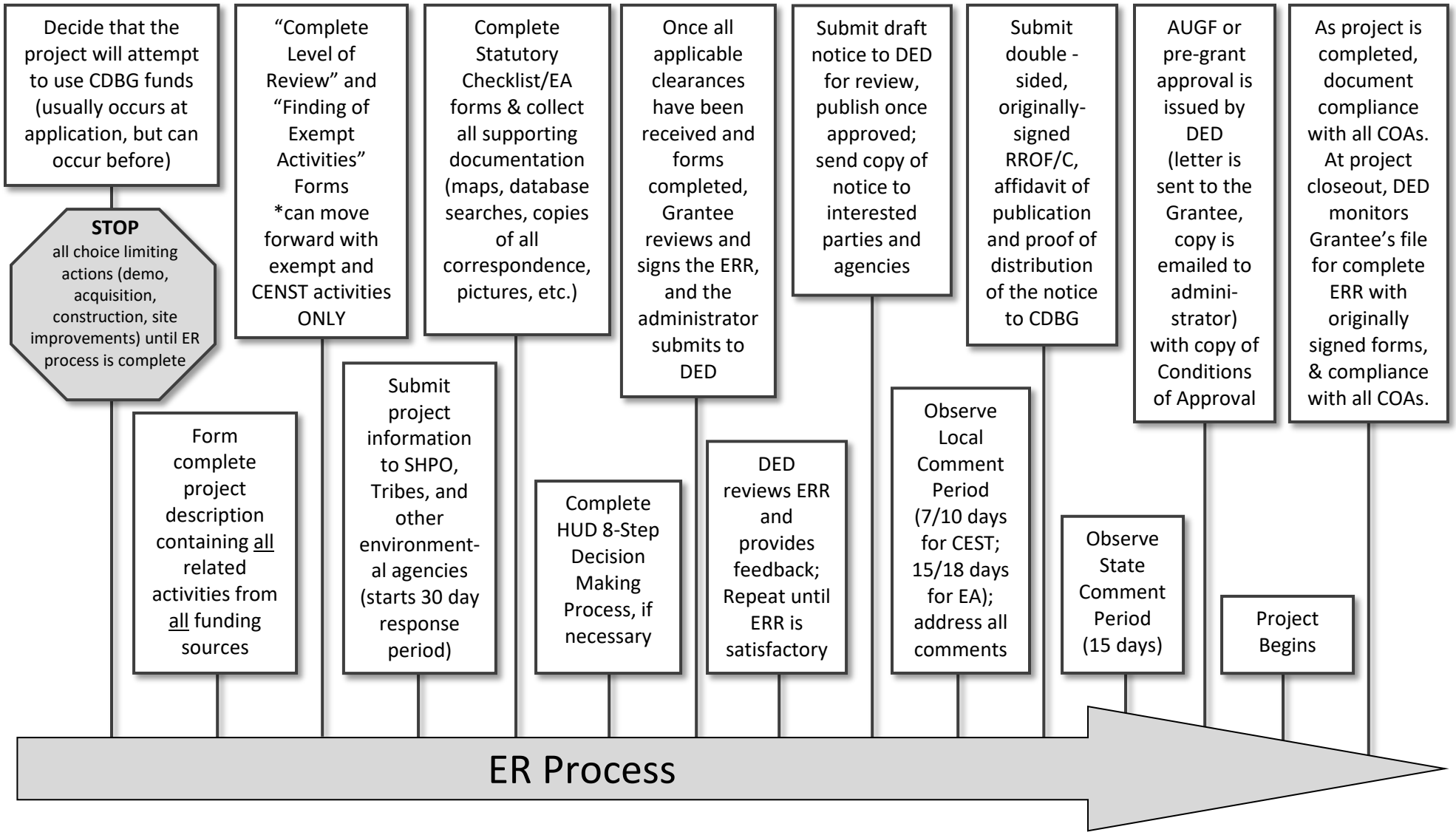
Step 7— State Comment Period

Once the documents have submitted and are accurate, the state 15 day objection period begins.

Step 8— Obtaining Environmental Clearance

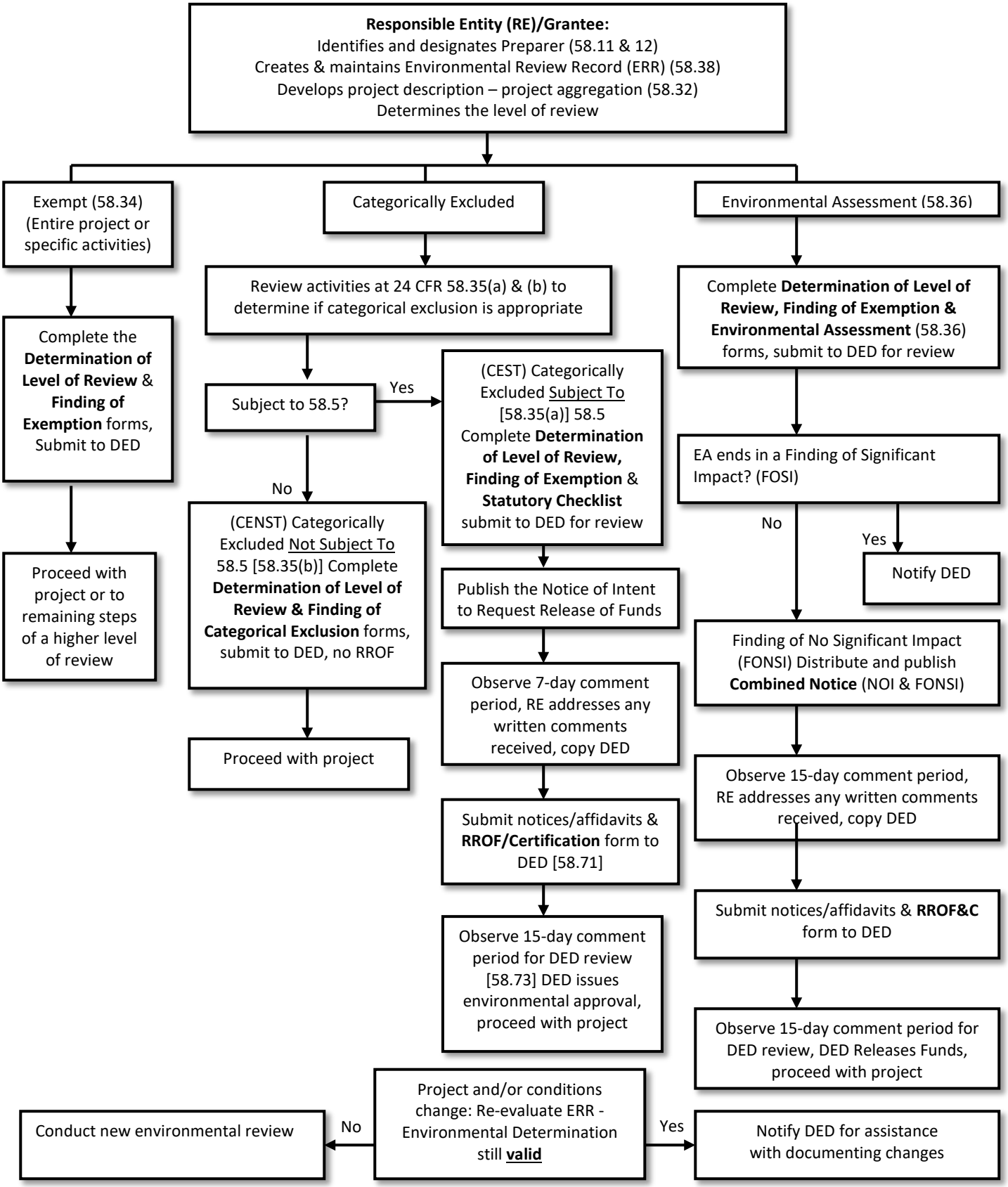
After the end of the State 15 day comment period, CDBG will provide a Release of Funds letter to the recipient providing environmental clearance and clearance to use grant funds after the Department receives all of the special conditions required by recipient's CDBG contract.

## TIMELINE FOR CEST/EA PROJECTS




There is no specific timeframe for completion of the ER. On average, CEST and EA level reviews can take 90-120 days to complete. It is wise to begin the process as soon as the project is significantly known to allow sufficient time for the possible discovery of adverse impacts requiring mitigation or even the selection of a new project site.

MISSOURI CDBG ENVIRONMENTAL REVIEW PROCESS
General Flow of Review Procedures 24 CFR Part



# FORMATTING AND DOCUMENT REQUIREMENTS

To produce a concise and reader-friendly document, please consider the following recommendations.

- All descriptions and responses should be written for the general public, with enough detail for someone who has no prior knowledge of the project or program.
- Compliance must be clearly documented by acceptable source documentation.
- PROOFREAD all correspondence and forms. Misspellings and omissions can change the entire context of a sentence.
- Environmental forms and documents should be typed, not handwritten.
- Ensure all forms and supporting documentation is the most current available.
- Attach all documents to the corresponding section. (See ER Self-Monitoring Checklist Review)
- Do not submit duplicate documents. If documentation may apply to more than one section, a reference must be in the Compliance Determination Summary.
- Attach additional pages as needed. Always instruct the reader to "See attachment".
- The project description should remain virtually identical on all forms and documents. This includes agency requests for review, funding applications, engineering and architectural reports, and environmental forms. If changes are proposed after the application and engineering/architectural reports were completed, clearly explain this in the project description (i.e., what has changed, when the decision was made, and why the change is needed). If sites/locations change, provide a map indicating the original site(s) in relation to newly proposed site(s).
- Maps should be in color, particularly if there are color-coded legends. Where applicable, clearly labeled maps are preferable to lists.
- Use linear measurements to show proximity. (Do not use driving directions.)
- Photographs are best when in color.
- If problems with formatting and/or computer program compatibility issues, broken links, or new contact persons are encountered, please let CDBG know!

# PUBLIC PARTICIPATION

Early and meaningful public participation in the decision making process is paramount in promoting effective planning, project development, implementation, and compliance with NEPA requirements throughout the project's life. Public participation is often a requirement of the CDBG funding application process; however, it is also important for ensuring safe, successful, and environmentally sound projects. Opportunities for public participation should be built into the decision making process.

Public participation is rooted in the Council for Environmental Quality's (CEQ) regulations, the National Environmental Policy Act of 1969 (NEPA), U.S. Department of Housing and Urban Development environmental regulations, National Historic Preservation Act of 1966, and Environmental Justice Executive Order 12898.

**Meaningful Involvement** means:

1. People have an opportunity to participate in decisions about activities that may affect their environment and health
2. The public's contribution can influence the regulatory agency's decision
3. Their concerns will be considered in the decision making process
4. The decision makers seek out and facilitate the involvement of those potentially affected

## PRELIMINARY ENGINEERING & ARCHITECTURAL REPORTS

Projects requiring an Environmental Assessment (EA) or Statutory Checklist (CEST level) will likely require a preliminary engineering (PER) and/or architectural report (PAR). Engineering reports are generally required for public infrastructure improvement projects such as water, sewer, storm sewer, utilities, roads, bridges, etc. Architectural reports are required for new construction or rehabilitation of buildings. Occasionally a project will require both types of reports. Following are items commonly included in PERs and PARs, but is not an all-inclusive list. Reports must be written to address the specific details of and need for a project. The level of effort needed to prepare the report and the depth of analysis within should be proportional to the size and complexity of the proposed project.

## CONDITIONS OF APPROVAL

24 CFR 58.40(d) and 58.71(b); 40 CFR 1505.2(c) and 40 CFR 1508.20

When reviewing project activities for potentially adverse environmental impacts, it may be determined that certain conditions must be met to alleviate or minimize the effects during the course of the project, including, but not limited to, procuring permits, limiting construction actions to certain areas, implementing of specific construction practices, design approval by other agencies, compliance with local ordinances, etc. Work with local, state, and federal agencies to determine requirements to determine these "Conditions of Approval." They should be written so that CDBG staff can verify satisfaction of the condition, and should state clearly and concisely:

- What is to be done
- How it is to be done
- Who is to do it
- When it is to be done
- Who is responsible for determining compliance, as well as when and how, if necessary

**EXAMPLE:** Excavation shall only take place in the existing plow zone (area that has been plowed and utilized for row crops). If excavation must be performed in areas that are not previously disturbed, an archaeological survey must be completed and submitted to SHPO for approval prior to the work taking place. This measure shall be noted in contract documents. Environmental preparer or project administrator shall perform a site visit to ensure compliance with this requirement.

*Contact the CDBG Environmental Specialist if you need assistance formulating the Conditions of Approval.

# TIERING (24 CFR §58.15)

Tiering is a means to environmentally assess a project in the early stages of development or when site-specific analysis is not currently feasible, resulting in a more focused evaluation once additional information and/or sites are known. Tiering is commonly used for demolition only projects in which some structures proposed for demolition may be known at the time of the Tier I Review with additional structures being considered later in the project. Tiering is generally restricted to CEST-level reviews. Consult with CDBG if considering a tiered review. Following are guidelines when using the tiered review approached.

**Tier I Review:** Broad Review.

- **Designate the broad area of interest-** The Tier I Review is completed to obtain environmental approval for the project as a whole, with the understanding that additional activities and/or sites will be added later in the project. Provide a geographic designation of the area or region of potential Tier II sites. For large-scale county-wide or multi-county projects, designate specific priority areas within the counties and explain why they are areas of interest.
- **Plan-** Establish a plan (narrative) for the areas of environmental compliance that will be addressed during each level of the review.
- **Complete Review-** Address all laws and authorities for an area wide basis via the appropriate ER packet. Publish the applicable public notice(s), with language indicating the use of a tiered review approach and the specific areas of environmental compliance that will be addressed in the Tier II.

**Tier II: Site-Specific Review.** Using the CDBG Tier II form (refer to the following page), complete a review specific to each additional site identified through the course of the project, and submit to CDBG for review and comment. As long as Tier II Reviews address sites and activities established in the Tier I Review, and there are no significant and/or unanticipated impacts at each tiered site, then public notices and the RROF/C process are not required and site-specific activities may commence.

***** Industrial Parks: In the case of industrial parks for economic development projects, particularly those that have experienced little to no development, a suggested approach to the environmental review is to identify the entire boundary of the industrial park, even land that has not yet been acquired or designated but is a consideration for inclusion in the future. Conduct the environmental review on the entire area, to the extent possible, in the Tier I Review. Where CDBG funds are proposed later, site-specific Tier II Reviews would be completed for any additional infrastructure and company activities.

*If a Tiered approach will be used, SHPO must be notified that site specific review will be completed as activities and properties are known.

| **Be Aware!** | **Check with the CDBG Environmental Review Specialist before beginning a tiered review.** |
|---|---|

## MULTI-YEAR/PHASED PROJECTS [24 CFR §58.32(d)]

The following are guidelines for preparing a useful multi-year/phased environmental review for projects proposed to evolve over several years, as commonly used for large-scale and/or regional water and wastewater projects. Regardless of the source of funds, the environmental review should consider the relationship among *all* components of the multi-year/phased project, addressing and evaluating their cumulative, direct, and indirect environmental effects.

It is imperative to formulate a clear description of all proposed activities throughout the course of the project, a timetable or schedule each activity, and how the environmental review is intended to encompass the project as a whole. Include this information in the ERR. Each phase must be explained in as much detail as possible at the time of the initial review. The estimated *total* project cost should also be listed.

Address cumulative, direct, and indirect effects of the project as a whole over its expected lifetime. Include local and regional trends, such as projected growth, and any future goals for the area, such as new housing development and/or development of commercial areas that could not be accomplished without the CDBG-assisted project. Comprehensive plans are especially helpful in ensuring all related project activities are in conformance with plans, and typically explain the future goals and trends planned for an area or community.

Monitor the project to ensure it is progressing as planned in order to continue verify the validity of the environmental review and finding. Changes to the scope, magnitude and location of project activities require the completion of an ERR Amendment, and possibly the publishing of a new notice. Remember to contact environmental agencies and Tribes for review and comment prior to the implementation of significant changes.

## OTHER FEDERAL/STATE/LOCAL AGENCY ENVIRONMENTAL REPORTS (24 CFR §58.14)

Responsible Entities should cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements. A single EA may be prepared by one agency and used by other agencies participating in the same or geographically and functionally-related projects if an official agreement is made designating the lead agency prior to beginning the Environmental Review. The ER should cover all areas of compliance for all agencies involved. Some information may be proprietary (e.g., ASTM Phase I Environmental Site Assessments, asbestos/lead paint inspections, historic surveys, geotechnical reports, etc.) and permission may be required prior to obtaining or using such information.

When other State or Federal agencies are partnering with CDBG in a project, the RE/grantee may use the environmental report to the extent practicable to assist in achieving compliance with NEPA and HUD requirements, provided the other agencies' environmental reports/assessments is current and all project activities regardless of funding source must be included (i.e. the scope of the project must be the same). Reports and assessment should be supplemented, as necessary, to meet HUD/CDBG environmental compliance requirements. Use the *'CDBG Environmental Impact Checklist'*, located on the following page, to help ensure that all environmental impacts are considered. All documents must be reader friendly and easy to follow and understand. The RE Certifying Officer must independently evaluate the report to ensure its accuracy and validity and sign off on the document, certifying his/or approval of and accepting responsibility for the information included to meet HUD compliance.

As is customary, a copy of the entire environmental assessment/report and all supporting documentation must be submitted to CDBG for review and comment. Once CDBG evaluates the document and if no significant impacts are determined by the RE, the required HUD/CDBG public notices should be published and applicable comment periods observed.

**** PLEASE BE AWARE, other agency environmental notices do not meet HUD compliance. You must publish HUD/CDBG Environmental Notices,*** (Combined Notice, Notice of Intent, Floodplain Notices, etc.) and observe applicable CDBG comment periods.

# CDBG ENVIRONMENTAL IMPACT CHECKLIST

(For Review of Other Agency Environmental Reports, Assessments & Reviews)

**Date of Report/Assessment: _____** **Type of Project: _____**

**Other Entity/Agency: _____**

**Preparer Name/Agency: _____**

**CDBG RE: _____** **CDBG Project #** *(if funded)*: **_____**

**CDBG Level of Review:** ❒ **Categorically Excluded** ❒ **Environmental Assessment**

**HUD Environmental Review Compliance Areas:**

**CEST AND EA**

- ❑ Project Location (must be the same)
- ❑ Project Description (must be the same)
- ❑ Documented Site Visit
- ❑ Estimated Project Costs All Sources
- ❑ Preliminary Engineering/Architectural Report
- ❑ Signature of Certifying Officer
- ❑ Signature of Environmental Preparer
- ❑ Permitting
- ❑ Summary of Findings and Conclusions
- ❑ Project Mitigation/Modifications
- ❑ Conditions of Environmental Approval
- ❑ Historic Properties
- ❑ Flood Insurance
- ❑ Floodplain Management
- ❑ HUD 8- Step Process for Floodplains & Wetlands
- ❑ Wetlands
- ❑ Coastal Zones
- ❑ Airport Hazards
- ❑ Endangered Species: ❒Federal ❒State
- ❑ Wild & Scenic Rivers: ❒Federal ❒State
- ❑ Farmland Protection
- ❑ Noise Control
- ❑ Explosive & Flammable Operations
- ❑ Water Quality
- ❑ Air Quality
- ❑ Contamination & Toxic Materials
- ❑ Environmental Justice
- ❑ Determination of Level of Review Form
- ❑ Finding of Exemption Form

**EA ONLY**

- ❑ Purpose and Need of Project
- ❑ Existing Conditions & Trends
- ❑ List of Sources, Agencies, and Persons Consulted
- ❑ Public Outreach
- ❑ Examination of Alternatives
- ❑ Finding: ❑ FONSI ❑ FOSI
- ❑ Citizen Participation
- ❑ Land Development
- ❑ Socioeconomic
- ❑ Community Facilities
- ❑ Natural Facilities

# AMENDING THE ORIGINAL ENVIRONMENTAL REVIEW RECORD (24 CFR §58.47)

The re-evaluation of an environmental review is required when new activities are added, unexpected conditions arise, or substantial changes are made to the nature, magnitude, or extent of the project. However, all proposed changes must conform to the original project scope. Through an "Amendment to the ERR," the RE will re-evaluate the Environmental Review Record (ERR) to determine if the original finding remains valid.

If the RE determines the FONSI remains valid and the FONSI notice has already been published, no additional notice is required for publication. If the RE determines the original finding is no longer valid, it must prepare a new review or a higher level review, depending on the extent of the impacts.

Submit a completed "Amendment to the ERR" form and all supporting documentation to CDBG for review and comment, and include a copy in the RE's ERR. The RE Certifying Officer and the ER Preparer must sign and date the final submission.

*The RE is responsible for maintaining copies of ERRs previously completed. CDBG records are archived and destroyed after a specified time period – do not rely on CDBG to provide copies of prior ERRs.

| | |
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| **BE AWARE!** | **If at any time the project scope changes, if new circumstances and/or environmental conditions arise, or if alternatives not considered originally are selected, the impacts of the changes/activities must be reassessed, and the original finding reviewed for validity. If a new finding is made, new environmental notices must be published and a new Request For Release of Funds and Certification process is required.** |

| | |
|---|---|
| **FORM** | **Check the CDBG website for the ERR Amendment Form!** |

# PROPERTY ACQUISITION

Once the projected use of HUD assistance is determined, it is critical the acquisition of property or easements does not occur until the ER process is completed and DED has issued environmental approval. Property acquisition is a choice-limiting action (§58.71) and acquiring property prior to completion of the environmental review exhibits a bias for a specific site without evidence of an evaluation of that site or of other sites that may be suitable or even more appropriate for the project. This includes all types of easements. Further, it does not afford the public an opportunity to review and comment on the project. A well-prepared environmental review justifies the selection of a site.

The goal of the environmental review process is to improve projects or ensure projects do not adversely affect human health and safety, or the environment. Undertaking property acquisition prior to the environmental review is not in line with the goal of the environmental review process and could in fact jeopardize people and property. Examples of this include the acquisition of contaminated property, property with significant noise issues that are infeasible to attenuate, property located in close proximity to explosives and flammable operations, or property located in the floodplain.

Rather than formally acquiring property prior to completion of the environmental review, it is encouraged that an option agreement to purchase real estate be exercised – see HUD's sample agreement on the following page. The sample agreement may be modified to suit a particular project.

A real estate option agreement is a legal agreement between the potential buyer of real property and the owner of that property. The real estate option agreement gives the potential buyer the exclusive right to buy the property at a specific price within a specific time period. The option agreement does not impose any obligation upon the potential buyer to purchase the property. The option agreement does obligate the seller to sell at the specified price if the potential buyer exercises the option to buy in the manner described in the contract.

| | |
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| **REMEMBER!** | **Do not enter into any real estate agreement, other than HUD's option agreement to purchase real estate or similar agreement, prior to completion of the environmental review process and DED's issuance of environmental review approval.** |

# OPTION AGREEMENT TO PURCHASE REAL ESTATE TEMPLATE

THIS OPTION AGREEMENT ("Option") is made and entered into this _____ day of _____, 20___, by and between _____, whose principal address is _____, hereinafter referred to as "Seller", and _____ and _____, whose principal address is _____, hereinafter referred to as "Buyer".

NOW, THEREFORE, in consideration of the premises, the covenants and agreements hereinafter set forth and other good and valuable considerations (the receipt and sufficiency of which are acknowledged by the respective parties hereto), and the express understanding that Buyer intends to utilize HUD funding through Community Development Block Grant funds of the City/County/Village of _____ in a project for which a certain property is being obtained, it is agreed as follows:

A. Seller hereby grants to Buyer, pursuant to the terms and provisions hereof, an exclusive option to purchase (the "Option") the property described on Exhibit 1 attached hereto and incorporated by reference herein (the "Property"). Notwithstanding any other provision of this Option, the Buyer shall have no obligation to purchase the property. Furthermore, no transfer of title to the Buyer may occur, unless and until the City/County/Village of _____ has (1)provided the Buyer with a written determination, on the basis of a federally required environmental review and an approved request for release of federal funds, that purchase of the property by the Buyer may proceed, subject to any other contingencies in this Option or may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property OR (2) the City/County/Village has determined that the purchase is exempt from federal environmental review and a request for release of funds is not require. The City/County/Village of _____ shall use its best efforts to conclude the environmental review of the property expeditiously.

B. The Option granted herein shall remain in full force and effect through and including __[date]___. In consideration of this Option, Buyer concurrently herewith has paid Seller the nominal sum of _____ Dollars ($_____) (the "The Cost of the Option"), the receipt of which is hereby acknowledged, which $_____ shall be applied to the Purchase Price if the Option is exercised. This Cost of Option shall not exceed one thousand ($1,000) dollars.

C. To exercise this Option, Buyer shall give written notice of exercise to Seller at the following address: _____ prior to the expiration of the term of this Option.

D. Between the Seller's execution of this Option Agreement and the Closing (as hereinafter defined), Seller shall maintain the Subject Property (as hereinafter defined) in good order, condition and repair, reasonable wear and tear excepted, and otherwise operate the Subject Property in the same manner as before the making of this Option Agreement, as though Seller were retaining the Subject Property

E. Buyer and Buyer's agents and independent contractors may, during the term of the Option and after the exercise thereof until the Closing (as hereinafter defined), enter upon the Subject Property at reasonable times upon reasonable prior notice to Seller for the purpose of inspecting and investigating the Subject Property and conducting tests thereon at Buyer's sole cost and expense.

F. Buyer covenants and agrees (a) to indemnify and hold Seller harmless from any and all costs and charges for any and all tests, inspections and investigations of the Subject Property by Buyer and Buyer's agents and contractors and from any and all liability or damage (including but not limited to attorneys' fees and court costs) to any persons or property suffered as a result of any physical injury or property damage caused by Buyer's entry, testing, investigation or inspection of the Subject Property; (b) to repair any and all damage to the Subject Property resulting from Buyer's entry, testing or inspection of the Subject Property; and (c) to provide Seller with copies of any and all tests, reports, studies, zoning or other governmental applications, evaluations and other information received or developed by Buyer with respect to the Subject Property (other than those prepared by Buyer or Buyer's attorneys, accountants, employees, or confidential agents); and (d) in the event that Buyer does not acquire the Subject Property, that Seller may make such use of all such tests, reports, studies, zoning or other

governmental applications, evaluations and other information as Seller, in its sole discretion, so desires.

G. In the event that Buyer exercises this option, the sale price for the property set forth in attached Exhibit 1 shall be _____. Seller shall credit to the Buyer toward said sale price the amount paid for this Option.

IN WITNESS WHEREOF, the parties have executed this Option Agreement on the dates set forth below.

Date: _____ Buyer 1 Signature: _____

Printed Name: _____

Date: _____ Buyer 2 Signature: _____

Printed Name: _____

Date: _____ Seller Signature: _____

Printed Name: _____

Property Address:

Property Legal Description:

# ECONOMIC DEVELOPMENT PROJECTS

Timing is a common concern with Economic Development (ED) projects. Most companies are anxious to begin expending funds and commencing construction activities as soon as possible. It is critical that the environmental review be initiated as soon as the projected use of HUD funds is determined to minimize delays and to prevent actions from occurring that could jeopardize CDBG funding for use in a project. All parties in the project (e.g., CDBG applicants, key company personnel, economic developers, RPCs/RCOGs, private grant consultants, etc.) should be informed of HUD's environmental review requirements as soon as possible. Responsible Entities and companies should be provided the most current environmental review information available and be afforded the opportunity to make thoughtful decisions when designing the project in the early stages of development.

As is the case for all CDBG projects, some level of environmental review is required for ED projects, including all activities proposed by all funding sources. All geographically and functionally related activities compose the project. For example, a "project" is not simply a road proposed with CDBG funds; the road is merely one activity in the greater project. The project may be expansion of a company's operations. Activities for this expansion could include new construction of a facility and the public road needed to support facility operations. Individual activities must not be parsed out separately in an attempt to avoid environmental review requirements.

A project may involve more than one activity funded by several sources including other federal and state agencies, cities or counties, banks and other lending institutions, private individuals, companies, etc. Communication among all parties is critical to the success of the environmental review.

Below are key points to consider when considering CDBG funds for an ED project:

- Environmental review is authorized and regulated by Federal law, not DED policy.
- Initiate the environmental review as soon as the project is substantially known. If there is intent to apply for CDBG funds, the environmental review should be considered as early as possible in the project development process. The ER process takes **at least** 90-120 days.
- The environmental review cannot be waived. Once the level of environmental review is determined for a project, all steps in that process are required for completion prior to beginning the project.
- All functionally or geographically related activities proposed by all funding sources for the project must be included in the environmental review. Environmental reviews are not conducted solely on activities proposed with CDBG funds.
- Once the intent to apply for HUD funds is determined, absolutely no construction, acquisition, rehabilitation, modifications, excavation, and no expenditures for working capital or installation of machinery and equipment proposed in the project must occur prior to the completion of the environmental review applicable to the project. Doing so will jeopardize CDBG funds for use in the project.
- Environmental reports, assessments, reviews, etc., completed by or for other agencies may not fulfill all CDBG requirements. However, this information may be utilized for completing the CDBG environmental review.
- Ensure there is a detailed description of a company's operations along with their proposed activities. See the CDBG website for the ER-ED Checklist to assist in obtaining appropriate company information.
- In the case of industrial parks for economic development projects, particularly those that have experienced little to no development, it is suggested that the entire industrial park be identified and addressed to the extent possible in the Tier I Review. Where CDBG funds are proposed later, site-specific Tier II Reviews would be completed for any additional infrastructure and company activities.

| | |
|---|---|
| **FORM** | **Check the CDBG website for the ED Checklist- Company Specific Information form.** |

# ER SELF-MONITORING CHECKLIST REVIEW

***This document is a tool for the environmental review preparer to proof their work and ensure all sections contain the appropriate information and documentation.***

- Are documents written for a "cold reader" – someone who has no knowledge of the project?
- For consistency, cross check information w/ all other project documents (PER/PAR, CDBG & other funding applications, CDBG Funding Approval if funded, environmental studies/reports, etc.)

☐ **Determination of Level of Review**

☐ **Finding of Exempt Activities**

☐ **Cover Page**

— Project Name __ Responsible Entity __ Sub applicant
— Project Number __CEO __ Preparer

☐ **Project Location/Address**

☐ **Total Project Costs:** All funding sources and amounts listed

CDBG $_____ Local Cash $_____ Private $_____
Federal $_____ In-Kind $_____ Other State $_____
Total $_____

☐ **Responsible Entity Project Contact Name, Address, Telephone**

☐ **Name & Address of Sub-recipient, if applicable:** Non-profit, public water supply or sewer district, fire or ambulance district, library, downtown organization, etc. If no sub-recipient, N/A must be checked.

☐ **Conditions of Approval:** List conditions that were identified throughout the ERR.

☐ **Determination:** __Converts to Exempt (CEST) __FOSI (EA)
__Does not Convert to Exempt (CEST) __FONSI (EA)

☐ **Preparer:** __ Signature __ Date __ Name/Title __ Agency

☐ **Certifying Officer:** __ Signature __ Date __ Name/Title

☐ **Preliminary Design:** __PER __PAR __Date __Name of firm

☐ **Property Acquisition:** Explain if the project requires property acquisition.

☐ **Description of Project:** All proposed activities & actions by all funding sources

☐ **Purpose & Need of Project:** Needs the project will address, <u>not</u> the project description

☐ **Existing Conditions & Trends (EA Only):** Project & surrounding area's appearance now vs. at completion; Compatibility of future use plans for project & surrounding areas, if known; Site appearance without project

☐ **Project Alternatives (EA only):** Evaluation of each alternative, including no action; Explanation for preferred alternative. <u>N/A is unacceptable.</u>

☐ **Agencies Contacted**

☐ **Public Outreach:** Opportunity for public input in decision making; Examples: public notices & hearings, newspaper articles, environmental notices, etc; Minutes should reflect project and areas of environmental consideration thoroughly

☐ **Field Visit Checklist:** include photographs, aerials, and other supporting documentation, as necessary

☐ **Historic Properties:**

— Correspondence with SHPO, including Project Information Form and attachments
— Determination to Consult with Tribes Under Section 106 Form
— TDAT results, if applicable
— Correspondence with Tribes, if applicable
— Cultural Resource Survey, if applicable
— Memorandum of Agreement (MOA), if applicable (Letters to ACHP & Tribes)

- SHPO/ACHP/Tribal approval of MOA stipulations, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Flood Insurance:**
- FIRMette or best available flood data
- Proof of Flood Insurance, if required
- Documentation supporting exception, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Floodplain Management:**
- FIRMette or best available flood data
- Documentation supporting exception, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Wetland Protection:**
- Color National Wetlands Inventory Map
- Documentation supporting exception, if applicable
- IPac
- Correspondence with USACE, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **HUD 8 Step Decision Making Process:** only complete if applicable
- Proof of publication and distribution of EPN
- Proof of publication and distribution of NOE
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Coastal Zone Management:** None in MO

☐ **Airport Hazards:**
- Documentation supporting exception, if applicable
- Maps indicating not within thresholds/APZ/RPZ/CZ
- Conformance with DOD guidelines, if applicable
- Proof of notification of airport hazards, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Endangered Species:**
- IPaC
- Missouri Natural Heritage Report
- "Effect Determination Tool" Results
- Documentation supporting "Effect Determination"
- Correspondence with USFWS, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Wild & Scenic Rivers:**
- Map showing W&S Rivers/Segments in proximity to project site
- Correspondence with USFWS or NPS, as applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Farmland Protection:**
- Documentation supporting exception, if applicable
- Map(s) supporting exemptions, showing farmland, etc., as applicable
- Correspondence and attachments to and from USDA NRCS
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Noise Control:**
- Map(s) showing project in relation to noise sources or sensitive noise uses
- Noise Assessment, if applicable

- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Explosive & Flammable Operations:**

- Photographs/Maps of project site & adjacent sites showing explosive & flammable hazards
- HUD Acceptable Separation Distance calculations, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Water Quality:** Missouri has no sole source aquifers

☐ **Air Quality:**

- Documentation of project area's attainment status
- Documentation supporting exception, if applicable
- Correspondence with EPA and DNR, if applicable
- Proof of compliance with SIP, if applicable
- Asbestos- inspection and report, if applicable
- Mold- inspection and report, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Contamination & Toxic Substances:**

- Separate form for fill/borrow, if applicable
- Previous uses of site(s)
- Online Database Screening: Superfund, eStart, Landfills, UST, ECHO, Envirofacts, etc.
- E Phase I Environmental Site Assessment (ESA), if applicable
- ASTM Phase II ESA, if applicable
- Lead-Based Paint: inspection and report, if applicable
- Lead-Based Paint: "Lead Rule Compliance Advisor" results, if applicable
- Radon: test results, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Environmental Justice:**

- Documentation showing project area's income and minority levels
- Positive and negative impacts to people by the project
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Summary of Findings & Conclusions**

**<u>The following is applicable to the EA "Additional Environmental Factors" Section ONLY</u>:**

Documentation of compliance, including appropriate sources and necessary information, for the following sections will vary greatly depending on project type, location, size, etc.

☐ **Land Development**

- Documentation supporting current community plans
- Zoning map
- Evidence of surrounding natural and built environment, if applicable
- Plans for conformance with surrounding natural and built environment, if applicable
- Documentation supporting soil suitability (geotechnical reports, soil borings, soil reports, etc.)
- Documentation of appropriate slope for site use
- Erosion control plan, if applicable
- Compliance with MS4 requirements
- Evidence of measures to be incorporated for safety
- Documentation of energy efficiency measures, if applicable
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Socioeconomic**

- Documentation of project's potential to effect employment and income patterns

- Documentation of project's potential to effect community demographic characteristics
- Documentation of project's potential to cause displacement
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Community Facilities & Services**

- Documentation of project's potential to effect educational and cultural facilities
- Documentation of project's potential to effect commercial facilities
- Documentation of project's potential to effect health care facilities
- Documentation of project's potential to effect social services
- Documentation of adequate solid waste disposal services
- Documentation of adequate wastewater disposal services
- Documentation of adequate water supply
- Documentation of adequate public safety services
- Documentation of adequate parks, open spaces, and recreation
- Documentation of adequate transportation and accessibility
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Natural Facilities**

- Documentation of nearby unique natural features
- Documentation of sufficient ground water for project
- Documentation of measures to protect ground water
- Documentation of measures to protect vegetation
- Documentation of measures wildlife
- **Mitigation/Condition of Approval?** ☐ No ☐ Yes: _____

☐ **Impact Summary**

# ENVIRONMENTAL NOTICES, COMMENT PERIODS, RROF, AND AUGF

# ENVIRONMENTAL PUBLIC NOTICES AND COMMENT PERIODS

Environmental public notices are applicable to CEST and Environmental Assessment levels of review and require observance of comment periods. Below is guidance for calculating comment periods, followed by templates of HUD's environmental notices.

**COMMENT PERIODS – CALCULATING DAYS:**

**Local Comment Periods** (Initial comment period on the local government level)**:**
The local comment period begins the day after the date the notice is published. If the last day of the local comment period should fall on Saturday, Sunday or Federal holiday, comments periods shall be extended to the next business day.

- The RE may extend the comment period for any reason. For example, if the project is highly complex, controversial, multi-phased, etc., the RE may wish to extend the comment period in order to provide adequate opportunity for public comment.
- If comments are received, The RE must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before submittal of the RROF.
- The RROF/C may be submitted to DED *no earlier than one day after the local comment period* (8th day for Notice of Intent only; 16th day for the Combined Notice). If there is a significant time lapse between the last day of the local comment period and the date the RROF/C is submitted to DED, the RE may be required to re-publish the public notice, observe a second local comment period, re-submit the RROF/C, and observe the State's 15-day comment period.

Below is an example of a Combined Notice 15 day comment period ending on a weekend requiring the comment period be extended to the next business day.

| Sunday | Monday | Tuesday | Wednesday | Tuesday | Friday | Saturday |
|---|---|---|---|---|---|---|
| | | | | 1 | 2 – Combined Notice Publication | 3 Day 1 |
| 4 Day 2 | 5 Day 3 | 6 Day 4 | 7 Day 5 | 8 Day 6 | 9 Day 7 | 10 Day 8 |
| 11 Day 9 | 12 Day 10 | 13 Day 11 | 14 Day 12 | 15 Day 13 | 16 Day 14 | 17 Day 15 |
| 18 | 19 – First business day | 20 – RROF/C submitted to CDBG | 21 – State comment period commences | 22 | 23 | 24 |

**State Comment Period:**
The State's 15-day comment period commences the day after the RROF/C is submitted to DED. If the last day of the comment period should fall on Saturday, Sunday or Federal holiday, comments shall be extended to the next business day. The day after the end of the State's comment period (16th day) the Pre-Grant Award letter or the

Authority to Use Grant Funds form shall be issued pending resolution to any comments received. Review the permissible bases for public objections at 58.75.

# EARLY PUBLIC FLOODPLAIN/WETLANDS NOTICE TEMPLATE

This is the first of two notices required for the HUD 8-Step Decision Making Process for Floodplains and/or Wetlands. Italicized words in parenthesis are to be replaced with language relevant to the specific project and Responsible Entity involved. The notice may be submitted to CDBG for review prior to publication. The notice must be published one time in the newspaper of widest circulation as a display advertisement. The notice must also be mailed to Tribes, if applicable, and environmental agencies. A 15-day comment period begins one day after the date of publication and prior to publishing the Notice of Explanation (second floodplain notice). Also, the notice must be published prior to the Notice of Intent to Request Release of the Funds (NOI) or the Combined Notice, whichever notices applies. Obtain the affidavit of publication and/or tear sheet. Maintain proof of distribution to environmental agencies.

## EARLY NOTICE AND PUBLIC REVIEW OF A PROPOSED ACTIVITY IN A FLOODPLAIN AND/OR WETLAND

**Date of Publication:**

**To: All interested Agencies [include all Federal, State, and Local], Groups and Individuals**

This is to give notice that *(the name of Responsible Entity)* has determined that the following proposed action under CDBG and *(CDBG Project Number, if funded)* is located in the (*100-year/500-year floodplain/wetland)*, and *(the Responsible Entity)* will be identifying and evaluating practicable alternatives to locating the action in the *(floodplain/wetland)* and the potential impacts on the *(floodplain/wetland)* from the proposed action, as required *by (Executive Order 11988 and/or 11990)*, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Protection of Wetlands. (*Describe the activity, e.g. purpose, type of assistance, the size of the site, proposed number of units, size of footprint, type of floodplain/wetland, natural and beneficial functions (e.g. floodwater storage and conveyance, groundwater discharge or recharge, erosion control, water quality maintenance, and habitat for flora and fauna) and values (e.g. recreational, educational, scientific, historic, and cultural) of the floodplain/wetland potentially adversely affected by the activity). (State the total number of acres of floodplains/wetland).* The proposed project(s) is located at *(addresses)* in *(Name of City), (Name of County).*

There are three primary purposes for this notice. First, people who may be affected by activities in *(floodplains/wetlands)* and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Commenters are encouraged to offer alternative sites outside of the *(floodplains/wetlands)*, alternative methods to serve the same project purpose, and methods to minimize and mitigate impacts. Second, an adequate public notice program can be an important public educational tool. The dissemination of information and request for public comment about *(floodplains/wetlands)* can facilitate and enhance Federal efforts to reduce the risks and impacts associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in *(floodplains/wetlands)*, it must inform those who may be put at greater or continued risk.

Written comments must be received by *(Responsible Entity)* at the following address on or before *(date equal to a minimum 15 calendar day comment period starting the day after the publication)*: *(Responsible Entity), (Address)* and *(phone number)*, Attention: *(Name & Title of Certifying Officer)*. A full description of the project may also be reviewed from *(enter available office hours and days of the week)* at *(address or state address is same as above)* and *(web address if available)*. Comments may also be submitted via email at *(email address if available)*.

*(Name of Mayor/Presiding Commissioner/Village Chair)*

# NOTICE OF EXPLANATION FLOODPLAIN/WETLANDS NOTICE TEMPLATE

This is the second and final floodplain notice required as part of the HUD 8-Step Decision Making Process for Floodplains and/or Wetlands. The Notice may be submitted to CDBG for review prior to publication. The notice must be published one time in the newspaper of widest circulation as a display advertisement. The notice must also be mailed to Tribes (if applicable) and environmental agencies. A 7-day comment period begins the day after the date of publication and may be published concurrent to the Notice of Intent to Request Release of Funds or the Combined Notice, whichever is applicable to the project. Obtain the affidavit of publication and/or tear sheet. Maintain proof of distribution to Tribes and environmental agencies.

## FINAL NOTICE & PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A FLOODPLAIN/WETLAND

**Date of Publication:**

**To: All interested Agencies [include all Federal, State, and Local], Groups and Individuals**

This is to give notice that *(the name of Responsible Entity)* has conducted an evaluation as required by *(Executive Order 11988 and/or 11990)*, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Protection of Wetlands. The activity is funded under the*(CDBG Project Number, if funded).* The proposed project(s) is located at *(addresses)* in *(Name of City), (Name of County). (Describe the activity, e.g. purpose, type of assistance, the size of the site, proposed number of units, size of footprint, type of floodplain/wetland, natural values). (State the total number of acres of floodplains/wetland).*

*(Responsible Entity)* has considered the following alternatives and mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial values: *(List (i) ALL of the reasons why the action must take place in a floodplain/wetland, (ii) alternatives considered and reasons for non-selection, (iii) all mitigation measures to be taken to minimize adverse impacts and to restore and preserve natural and beneficial functions (e.g. floodwater storage and conveyance, groundwater discharge or recharge, erosion control, water quality maintenance, and habitat for flora and fauna) and values (e.g. recreational, educational, scientific, historic, and cultural) of the floodplain/wetland) (Cite the date of any final or conditional LOMR's or LOMA's from FEMA where applicable) (Acknowledge compliance with state and local floodplain/wetland protection procedures)*

*(Responsible Entity)* has reevaluated the alternatives to building in the *(floodplain/wetland)* and has determined that it has no practicable alternative. Environmental files that document compliance with steps 3 through 6 of *(Executive Order 11988 and/or 11990)*, are available for public inspection, review and copying upon request at the times and location delineated in the last paragraph of this notice for receipt of comments.

There are three primary purposes for this notice. First, people who may be affected by activities in *(floodplains/wetlands)* and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Second, an adequate public notice program can be an important public educational tool. The dissemination of information and request for public comment about *(floodplains/wetlands)* can facilitate and enhance Federal efforts to reduce the risks and impacts associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in *(floodplains/wetlands)*, it must inform those who may be put at greater or continued risk.

Written comments must be received by *(Name of Responsible Entity)* at the following address on or before (*month/date/year)*[a minimum 7 day calendar day comment period will begin the day after the publication and end on the 8th day after the publication]*: (Name of Responsible Entity), (Address)* and *(phone number)*, Attention: *(Name & Title of Certifying Officer)*. Comments may also be submitted or further information can be

requested via email at *(RE's email address).* A full description of the project may also be reviewed from *(enter available office hours)* at the above address.

*(Name of Mayor/Presiding Commissioner/Village Chair)*

# NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS (NOI) TEMPLATE

The following *Notice of Intent to Request Release of Funds* (NOI) contains language required by HUD and is used to request environmental approval (environmental release of funds) for Categorically Excluded projects [CEST pursuant to 24 CFR Part 58, Section 58.35(a)] or for projects for which a Notice of Finding of No Significant Impact was previously issued. Required language is bolded and words in *italics* are to be replaced with language relevant to the specific project and Responsible Entity involved.

If there is more than one Grantee/applicant, list them all. For instance, in the case of multi-jurisdictional projects, there is a lead grantee along with other participating grantees. Also for multi-jurisdictional projects, notices should be published in newspapers of all relevant jurisdictions, or at a minimum, posted in high traffic areas of all jurisdictions involved in the project. If necessary, contact CDBG for assistance.

The notice must be published one time in the newspaper of widest circulation as a display advertisement. The Notice must specify that all comments be received and addressed in writing by the RE. The 7-day local comment period is the *minimum* time period required by regulation prior to submission of a Request for Release of Funds and Certification (form HUD-7015.15) to the State. The RE may choose to allow a longer comment period. The 15-day State objection period is a statutory requirement. The objection period follows the submission date specified in the NOI, or the actual date of receipt by the State, whichever is later.

If using a tiered or phased approach to the environmental review, the Combined Notice must indicate that additional activities and/or sites will be considered during the course of the project or over years, and will be environmentally reviewed to determine if the original Finding of No Significant Impact remains valid. If necessary, contact CDBG for assistance.

**NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS**

*Date of Publication*
*Name of Responsible Entity*
*Address (e.g., Street No. or P.O. Box)*
*City, State, Zip Code*
*Telephone Number of RE*

On or after *at least one day after the end of the comment period* the *name of RE – City, County, or Village* will submit a request to the State of Missouri Department of Economic Development for the release of Community Development Block Grant funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383) to undertake the following project:

**Project Title:** *descriptive project name*
**Purpose:** *detailed description/nature/scope and of project*
**Location:** *detailed project location*
**Estimated Cost:** *both estimated CDBG funding & total project costs*

The activities proposed are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at name and address of RE office where ERR can be examined – City Hall, County Courthouse, Village- and name and address of other locations where the record is available for review Hall and may be examined or copied weekdays __A.M to __P.M.

**PUBLIC COMMENTS**

Any individual, group, or agency may submit written comments on the ERR to the *RE office responsible for receiving and responding to comments – City Hall, County Courthouse, or Village Hall.* All comments received by *notice date plus seven days* will be considered by the *name of RE – City, County, or Village* prior to authorizing submission of a request for release of funds.

## RELEASE OF FUNDS

The *name of RE – City, County, or Village* certifies to the State of Missouri that *name of Certifying Officer* in *his/her* capacity as *Official Title – Mayor, Presiding Commissioner, or Village Chairperson* consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. The State of Missouri's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the *name of RE – City, County, or Village* to use HUD program funds.

## OBJECTIONS TO RELEASE OF FUNDS

The State of Missouri will accept objections to its release of funds and the RE's – City, County, or Village certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE – City, County, or Village; (b) the RE – City, County, or Village has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the State of Missouri; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to the State of Missouri Department of Economic Development at PO Box 118, Jefferson City, MO 65102. Potential objectors should contact the State of Missouri Department of Economic Development to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer (Mayor, Presiding Commissioner, or Village Chairperson)

# COMBINED NOTICE (FONSI & NOI) TEMPLATE

The following Combined Notice template contains language required by HUD and is used for projects requiring preparation of an Environmental Assessment. Required language is bolded and words in *italics* are to be replaced with language relevant to the specific project and Responsible Entity involved.

If there is more than one grantee/applicant, list them all. For instance, in the case of multi-jurisdictional projects, there is a lead grantee along with other participating grantees. Also for multi-jurisdictional projects, notices should be published in newspapers of all relevant jurisdictions, or at a minimum, posted in high traffic areas of all jurisdictions involved in the project. If necessary, contact CDBG for assistance with determining appropriate language in the notice. The Notice must specify that all comments be received and addressed in writing by the RE.

The Combined Notice must be published one time in the newspaper of widest circulation as a display advertisement. The notice must also be distributed to Tribes, if applicable, and environmental agencies and proof of distribution maintained. A 15-day comment period shall commence the day after the date of publication.

The 15-day public comment period is the minimum time period required by regulation prior to submission of a Request for Release of Funds and Certification (form HUD-7015.15) to the State. The RE may choose to allow a longer comment period. Pursuant to 58.46, "time delays for exceptional circumstances," a 30-day comment period for controversial or unique projects or those similar to projects normally requiring preparation of an Environmental Impact Statement. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice, or the day after receipt of the Notice by the State, whichever is later.

If using a tiered or phased approach to the environmental review, the Combined Notice must indicate that additional activities and/or sites will be considered during the course of the project or over years, and will be environmentally reviewed to determine if the original Finding of No Significant Impact remains valid. If necessary, contact CDBG for assistance.

## NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

*Date of Publication*
*Name of Responsible Entity*
*Address (e.g., Street No. or P.O. Box)*
*City, State, Zip Code*
*Telephone Number of RE*

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the *name of RE or grant recipient – City, County, or Village only*.

## REQUEST FOR RELEASE OF FUNDS

On or after *insert date at least one day after the end of the comment period* the *name of RE (City, County, or Village)* will submit a request to the State of Missouri Department of Economic Development for the release of Community Development Block Grant funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383), to undertake the following project:

**Project Title:** *descriptive project name*
**Purpose:** *detailed description/nature/scope and of project*
**Location:** *detailed project location*
**Estimated Cost:** *both estimated CDBG funding & total project costs*

## FINDING OF NO SIGNIFICANT IMPACT

The name of RE – City, County, or Village only has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at name and address of RE - City, County, or Village- office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays __A.M to __P.M.

## PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the *RE designated office responsible for receiving and responding to comments - County Court House, City Hall, or Village Hall.* All comments received by publication date plus fifteen days will be considered by the *name of RE – City, County, or Village* prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

## RELEASE OF FUNDS

The *name of RE – City, County, or Village* certifies to the State of Missouri that *name of Certifying Officer* in *his/her* capacity as *Official Title - Presiding Commissioner, Mayor, or Village Chairperson* consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. The State of Missouri's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the *City, County or Village* to use HUD program funds.

## OBJECTIONS TO RELEASE OF FUNDS

The State of Missouri will accept objections to its release of funds and the RE, – City, County or Village certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE – City, County, or Village; (b) the RE, – City, County, or Village has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by the State of Missouri; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to State of Missouri Department of Economic Development, Community Development Block Grant at PO Box 118, Jefferson City, MO 65102. Potential objectors should contact the State of Missouri Department of Economic Development to verify the actual last day of the objection period.

Name and Title of RE Certifying Officer (Presiding Commissioner, Mayor, or Village Chairperson)

# DISTRIBUTION LIST FOR ENVIRONMENTAL NOTICES

In general, environmental notices should be sent to all interested parties, including, local news media, individuals and groups interested in your activities, including historical societies and groups, and state and federal agencies, as deemed appropriate by the nature of the project.

**Following is a list of state and federal agencies most appropriate to receive environmental notification. This list is not all inclusive. Other agencies should be contacted as necessary for the project.**

- Floodplain/Wetland- if applicable, distribute the EPN and NOE to all relevant agencies and Tribes
- CEST/NOI- distribute the notice to agencies and Tribes *only* if located in a floodplain/wetland
- EA/Combined Notice- distribute the notice to all appropriate agencies , depending on project complexity, controversy, impacts, etc., and Tribes

<table>
<tr><td colspan="2">The contact information below can be used in conjunction with the worksheets to determine what agencies should be contacted for comment on the project prior to the submission of the ERR to CDBG.</td></tr>
<tr><td>HISTORIC PRESERVATION:<br>Missouri Department of Natural Resources<br>State Historic Preservation Office – Section 106<br>PO Box 176<br>Jefferson City, MO 65102<br>Phone: 573-751-7858<br><br>Indian Tribes<br>Access the website below to determine whether Indian Tribes have an interest in the County where the proposed project takes place.<br>HID Tribal Directory Assessment Tool</td><td>FLOOD INSURANCE/FLOODPLAIN MANAGEMENT:<br>FEMA Region VII<br>ATTN: Ken Sessa 11224 Holmes Rd Kansas City, MO 64131-3626 Phone: 816-283-7960<br><br>MO State Emergency Management Agency<br>ATTN: Karen McHugh, CFM, Floodplain Management Officer, NFIP State Coordinator<br>2302 Militia Drive, PO Box 116<br>Jefferson City, MO 65102<br>573/526-9129<br>karen.mchugh@sema.dps.mo.gov</td></tr>
<tr><td>WETLANDS:<br>U.S. Army Corps of Engineers<br>SEND TO THE AREA DISTRICT OFFICE:<br>USACE Regulatory Officer Locator<br>If a wetlands delineation is needed, contact NRCS:<br>NRCS Wetlands Delineation Contacts</td><td>WILD AND SCENIC RIVERS:<br>National Park Service<br>Environmental Compliance<br>Midwest Regional Office<br>601 Riverside Drive<br>Omaha, Nebraska 68102<br>Phone: 402/661-1848</td></tr>
<tr><td rowspan="2">ENDANGERED SPECIES:<br>U.S. Fish and Wildlife Service<br>Region 3 Ecological Field Office<br>ATTN: Karen Herrington, Field Supervisor<br>101 Park DeVille Drive, Suite A<br>Columbia, MO 65203<br>Phone: 573-234-2132<br><br>Missouri Department of Conservation<br>ATTN: Resource Science Division<br>2901 W. Truman Blvd., PO Box 180<br>Jefferson City, MO 65102<br>573/522-4115, ext. 3250<br>NaturalHeritageReview@mdc.mo.gov</td><td>FARMLAND PROTECTION:<br>USDA Natural Resources Conservation Service<br>Access the website below for area soil scientist.<br>NRCS MO Area Soil Contacts</td></tr>
<tr><td>AIR QUALITY: (State SIPs)<br>US EPA Region 7<br>Air and Waste Management Divisions<br>11201 Renner Boulevard<br>Lenexa, KS 66219<br>913/551-7089</td></tr>
</table>

**ENVIRONMENTAL QUALITY:**

**Missouri Department of Natural Resources**
Phone: 573-522-2656
Attn: Rob Hunt
P.O. Box 176, Director's Office
Jefferson City, MO 65102-0176
rob.hunt@dnr.mo.gov

**U.S. Environmental Protection Agency, Region 7**
ENSV/NEPA Team
11201 Renner Blvd.
Lenexa, KS 66219
Phone: 913-551-7565
**Tucker.amber@epa.gov**

**Submit all Combined Notices to EPA*

**Council of Environmental Quality**
722 Jackson Place, N.W.
Washington, DC 20503
Phone: 202-395-5750

# INSTRUCTIONS FOR COMPLETING THE REQUEST FOR RELEASE OF FUNDS & CERTIFICATION FORM (RROF&C)

A fillable PDF version of the request for release of funds & certification form is found at RROF/C HUD Portal.

**IMPORTANT:**

1. The Request for Release of Funds and Certification (RROF/C) must be submitted to DED timely after the local comment period expires for the Notice of Intent To Request Release of Funds (NOI) or the Combined Notice, whichever is applicable to the level of review required for your project. If too much time elapses between the time the comment period expires and the time you submit the RROF/C, you may be required to re-publish.
2. The original form must be on one page – front and back – not on two separate pages.
3. Do NOT indicate an exact amount for project costs on this form!
4. The form must be typed, not hand written.

**PART 1 – Program Description and Request for Release of Funds**

- **Box 1** – Program Title(s): Community Development Block Grant (CDBG)
- **Box 2** – HUD/State Identification Number: For projects that have been awarded funding, indicate the CDBG assigned project number (Ex. 2011-PF-01). For proposed projects, leave this area blank.
- **Box 3** – Recipient Identification Number: No entry is required. However, the Grantee may use this space for internal filing purposes.
- **Box 4** – OMB Catalog Number(s): **The State CDBG Program will always be "CFDA No. 14.228"**
- **Box 5** – Name & Address of the Responsible Entity: Name & address of the Grantee (city or county)
- **Box 6** – For Information about this request, contact name & telephone number: Enter the name of the person to contact concerning questions about this form and the environmental review for the project. This may be the grantee, but is commonly the person who completed the environmental review process.
- **Box 7** – Name & Address of Recipient (if different that responsible entity): This may be left blank as the grantee is the responsible entity and is indicated in Box 5.
- **Box 8** – HUD or State Agency and Office Unit to Receive Request: State of MO Department of Economic Development, CDBG Program
- **Box 9** – Program Activity/Project Name: Enter the name of the project/activity for which the request for release of funds is being submitted.
- **Box 10** – Location (Street address, city, county, & State): Enter the complete location of the project.
- **Box 11** – Program Activity/Project Description: Enter a complete description of all activities for which the form pertains.

**PART 2 – Environmental Certification (to be completed by responsible entity)**

- **No. 4** – Check one of the boxes. The second box is the box that is usually checked.
- Signature of Certifying Officer and Responsible Entity – Insert the name of the Mayor or Presiding Commissioner, the chief elected official for the grantee. This should correspond with whoever signs the grant agreement, otherwise known as the Funding Approval. The Certifying Officer is attesting to the grantee's compliance with HUD/CDBG environmental review procedures (24 CFR Part 58).

**PART 3 – To be completed when the recipient is not the responsible entity**

Signature of Authorized Officer of the Recipient: For purposes of the CDBG program, this area does not apply, as the recipient and the responsible entity are one in the same.

# Request for Release of Funds and Certification

**U.S. Department of Housing and Urban Development**
Office of Community Planning and Development

OMB No. 2506-0087
(exp. 07/31/2017)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

**Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)**

| 1. Program Title(s) | 2. HUD/State Identification Number | 3. Recipient Identification Number(optional) |
|---|---|---|
| 4. OMB Catalog Number(s) | 5. Name and address of responsible entity | |
| 6. For information about this request, contact (name & phone number) | | |
| 8. HUD or State Agency and office unit to receive request | 7. Name and address of recipient (if different than responsible entity) | |

**The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following**

| 1. Program Activity(ies)/Project Name(s) | 10. Location (Street address, city, county, State) |
|---|---|
| 11. Program Activity/Project Description | |

**Part 2. Environmental Certification** (to be completed by responsible entity)

**With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:**

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal ❑did/ ❑did not require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

| Signature of Certifying Officer of the Responsible Entity | Title of the Certifying Officer |
|---|---|
| | Date Signed |

Address of the Certifying Officer

**Part 3. To be completed when the Recipient is not the Responsible Entity**

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

| Signature of Authorized Officer of the Recipient | Title of Authorized Officer |
|---|---|
| | Date signed |

# PERMISSIBLE BASES FOR OBJECTIONS
## [24 CFR §58.75](DED's Objections to Release of Funds)

DED will not approve the *Request for Release of Funds* before 15 calendar days have elapsed from the time of receipt of the *Request for Release of Funds/Certification form (RROF/C)*. All objections must be received by DED within the 15-day period. DED will consider objections of a grantee's noncompliance with environmental requirements based on any of the grounds listed below. These are the only bases upon which DED will not approve the *Request for Release of Funds/Certification*.

The certification was not in fact executed by the RE/grantee Certifying Officer.

The RE/grantee has failed to make one of the two findings pursuant to §58.40 or to make the written determination as required, either a *Finding of Significant Impact (FOSI)* or *Finding of No Significant Impact (FONSI)* to the environment.

The RE/grantee has omitted one or more of the steps for the preparation and completion of an environmental review including publishing applicable notices and observing required comment periods, and completion of an *Environmental Assessment (EA)*.

Another Federal agency has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

The RE/grantee has omitted one or more of the steps for the preparation and completion of an *Environmental Impact Statement (EIS)*.

The RE/grantee or other participants in the development process have committed funds, incurred costs, or undertaken activities not authorized by 24 CFR Part 58.75 before the release of funds and approval of the environmental certification by DED/CDBG.

No opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on a property listed on the National Register of Historic Places or found to be eligible for such listing by the Secretary of the Interior.

With respect to a project where environmental circumstances cause a reevaluation of assessment findings, the use of prior environmental impact statements, or the use of supplemental impact statement, the grantee has failed to include in the *Environmental Review Record (ERR)* the written decision required, or its decision is not supported by facts specified by the objecting party.

If no objections are received, DED/CDBG will issue a "Pre-Grant Award Environmental Approval" letter for applications not yet funded, or the notice of "Authority to Use Grant Funds/Completion of Environmental Review Requirements", for projects that have been awarded CDBG fund

# CHAPTER V

# PROCUREMENT STANDARDS

## OVERVIEW

The primary goal of the rules and regulations governing procurement is to ensure open and free competition for federally assisted projects. The various procurement methods outlined in this chapter all attempt to promote open and free competition for contracts. Open and free competition by nature mandates contracting opportunity is equal opportunity. The goal of the State CDBG Program is to ensure that small firms along with women and minority owned firms have an equal opportunity to participate in contract opportunities provided by the program. Requirements related to Section 3 and Minority and Women Business Enterprise (MBE/WBE) participation are in place to ensure this opportunity.

The Missouri CDBG Program follows the Missouri procurement process codified in Missouri Revised Statutes Chapter 34 as required by law. The Missouri CDBG program requires city and county grantees and their sub-recipients to follow the procurement policies developed and published by the CDBG program, as outlined in this chapter. Both of the State of Missouri procurement policies codified in Missouri Revised Statutes Chapter 34 and the procurement policies developed by the CDBG Program for grantees and sub-recipients meet the requirements of 24 CFR Part 570.489(g).

Communities may use their own procurement procedures, which reflect applicable state and local laws and regulations, **provided** that the procurement conforms to the State CDBG Program's procurement policies and standards outlined in this chapter. In most cases, the State CDBG Program's procurement policy is stricter and the community must follow the procedures outlined in this chapter for all phases of the CDBG funded project.

If a community does not have a written procurement policy, the State CDBG policy must be adopted for all phases of the CDBG funded project. It is required that communities adopt procurement policies that satisfy the needs of their particular community when using their own local money. The Missouri Municipal League can assist city governments with this task.

*The CDBG grant agreement requires the community to adhere with the CDBG conflict of interest policy. The policy is stated in full in this chapter. If the community does not have its own conflict of interest policy, one must be adopted that defines conflicts and provides for employee standards of conduct. This policy may be incorporated into the local procurement policy.* ***Conflict of interest cannot be corrected after it occurs. Recognize it and take action ahead of time.***

## PROCUREMENT METHODS

The State CDBG Program allows five methods of procurement: micro-purchase, small purchase, competitive sealed bids, procurement by competitive proposals, and procurement by noncompetitive proposals. Each of these methods is described below. Again, if the community has their own written procurement procedures, the stricter of the two methods (local or State) shall be followed. **CDBG must approve the method of procurement prior to contract award where fewer than three qualifications/proposals/bids have been obtained**.

*The lowest and best bidder must be selected to provide the required supplies, equipment, or services, with the exception of engineering and architectural services. Only A/E professional services may use factors other than price as a selection factor. The lowest, most responsible and responsive bidder must be selected for construction contracts.* ***The community must fully understand the definition of the terms "lowest and best bidder" and "lowest, most responsible and responsive bidder."*** *They are often confused and interchanged, but are very different.*

- "Lowest and best" is typically used in non-construction, competitive bidding, such as equipment, professional services, and supplies. An evaluation is completed that weighs the amount of the bid with factors such as ability to perform, timeliness, character and reputation, quality of past performance, compliance with laws, quality and availability, future maintenance and service, and compliance with bid specifications. A community may "score" bidders based on weighting that reflects which criteria is most important to them. An example is included in this chapter. The top-scoring candidate may not necessarily be the lowest bidder. However, communities that select other than the lowest bidder must provide their selection criteria to CDBG. There must be written documentation to support the selection.
- "Lowest, most responsible and responsive" is typically used for competitive construction contracts. **Lowest** refers to bid amount. **Responsive** refers to a valid and correct bid. Examples of responsiveness include bids turned in prior to the deadline, bid forms filled out correctly, bids containing all required information (bonds), etc. A community may discard a non-responsive construction bid. **Responsible** refers to financial standing, skill, facilities, capacity, experience, previous work record, or any default within the last 12-month period. Discarding a construction contractor **solely** based upon the factors of "responsibility" demands much more documentation and requires the written recommendation of the community's own attorney.

**1. Micro-Purchase**

Procurement by micro-purchase is the procurement of supplies or services of which the aggregate dollar amount does not exceed $3,000 (or $2,000 in the case of procurement for construction, subject to the Davis-Bacon Act). To the extent practicable, the grantee must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the grantee considers the price to be reasonable. Minority/Women owned firms and Section 3/DBE businesses are to be contacted, whenever they are potential sources. More information on compliance with MBE/WBE requirements and a directory of MBE/WBE vendors may be found at Missouri Office of Equal Opportunity (http://oeo.mo.gov). Section 3 requirements are further explained in the Civil Rights Chapter.

**2. Small Purchase**

Relatively simple and informal procurement method used for securing services, supplies or other property that is estimated to cost less than $25,000 (current State of Missouri small purchase procurement threshold), in the aggregate. If small purchase procurement is used, price or rate quotations will be obtained from an adequate number of qualified sources. County grantees must also formally advertise per RSMo Section 50.660. Minority/Women owned firms and Section 3/DBE businesses are to be solicited. More information on compliance with MBE/WBE requirements and a directory of MBE/WBE vendors may be found at Missouri Office of Equal Opportunity (http://oeo.mo.gov). Section 3 requirements are further explained in the Civil Rights Chapter.

**3. Competitive Sealed Bids**

Competitive Sealed Bids (formal advertising) are used when the goods or services are expected to be $25,000 or more in cost. Competitive sealed bidding requires publicly solicited sealed bids and a firm-fixed price lump sum or unit price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the advertisement for bid, is lowest in price.

To facilitate competitive bidding, a list of prospective contractors for each type of activity should be assembled. The list should include reputable firms or persons who have a good performance record, including minority and project area contractors. Prospective contractors from the appropriate category should be invited to bid.

a. The advertisement for bid must be publicly advertised, in print, and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.

b. The State CDBG Program requires the advertisement to be publicly advertised a minimum of once a week for two consecutive weeks (14 days) to allow sufficient time prior to the opening of bids. Grantees should be aware of other funding agencies' requirements. Should another funding agency require a longer period, the stricter requirement should be followed. Should the grantee's (or subgrantee) procurement policy have stricter requirements, the stricter should be followed. The bid opening must be held at least a week after the final advertisement. Advertisement in Plan Rooms must be documented.
c. The advertisement, including specifications and attachments, must clearly describe the goods or scope of services required, thus permitting bidders to be responsive to the advertisement.
d. Minority/Women owned firms and Section 3/DBE businesses are to be solicited. More information on compliance with MBE/WBE requirements and a directory of MBE/WBE vendors may be found at Missouri Office of Equal Opportunity (http://oeo.mo.gov). Section 3 requirements are further explained in the Civil Rights Chapter.
e. All bids must be opened publicly at the time and place stated in the advertisement for bid.
f. A lump-sum price contract award must be made in writing to the responsive bidder whose bid is lowest, most responsible and responsive.
g. CDBG, HUD, and the Department of Labor maintain a list of excluded bidders, including SAM.gov. Recipients are required to contact CDBG to ensure that prospective contractors and supply-only contracts are eligible. (See the Contract Management Chapter.)
h. All unsuccessful bidders must be notified in writing if not documented as present at the bid opening.
i. Execute contract.

**4. Procurement by Competitive Proposals (Request for Proposals (RFP's)/Request for Qualifications (RFQ's)**

Competitive Proposals are generally used when sealed bids are not appropriate. Regulation states RFP's/RFQ's are to be publicized and identify all evaluation factors and their relative importance. Proposals will be solicited from an adequate number of qualified sources, and there will be a method for conducting technical evaluations of the proposals received and for selecting awardees. Awards are made to the responsible firms whose proposal is most advantageous to the program, with price and other factors considered.

a. The Competitive Proposal process is most typically used for the procurement of professional services, including, but not limited to, administration, architecture, engineering, asbestos inspection, demolition inspection, and title search services.
b. Procurement for professional services need not be formally advertised, unless RSMo Section 50.660 is applicable. However, there must be a competitive procurement process wherein a number of qualified professionals are invited to submit proposals.
c. Solicitation of professional administration services must include all persons on the CDBG Administration List and the Regional Planning Commission located in the project area.
d. Cities and counties which are member organizations of a regional planning commission (RPC) or council of governments (COG) may contract directly with that RPC or COG if both of the following conditions are met:
    a. The city or county, as the CDBG grantee, must be a dues-paying member in good standing of the RPC or COG for a minimum of 12 consecutive months prior to entering into the administration contract, and must be able to provide documentation of its membership in good standing.
    b. The CDBG application was prepared either by the city/county itself, or by the RPC or COG. If another third-party entity assisted the city/county with the application preparation, grant administration must then be procured in accordance with CDBG guidelines.
e. City and county grantees are not required to use the RPC/COG, and may elect to procure for grant administration even if both of the above conditions are met. This is simply an option that city and county grantees may use.

f. Price is not used as a selection factor in procurement of professional architectural or engineering (A/E) services. A/E firms may also be procured under qualifications for surveying and other services that require an A/E degree. After the lead qualifying firm is selected, then a contract price may be negotiated and agreed upon. If there is no such agreement, that A/E firm may be eliminated and discussions may begin with the second most qualified firm. Price is still important to the project. It is just not included in the evaluation phase.
g. For professional service firms other than A/E, using the Request for Proposals method, price is a component of the evaluation phase. In the event of including solicitation for a grant writer using the same RFP for grant administration solicitation, please identify that the proposal must clearly separate the cost associated with grant preparation and administration services.
h. The Request for Proposals method may be used for other types of professional service providers. Price must be a factor when selecting professional service firms other than A/E.
i. Minority/Women owned firms and Section 3/DBE businesses are to be solicited. More information on compliance with MBE/WBE requirements and a directory of MBE/WBE vendors may be found at Missouri Office of Equal Opportunity (http://oeo.mo.gov). Section 3 requirements are further explained in the Civil Rights Chapter.
j. All proposals received must be evaluated. A written method for evaluation, which includes the significant factors used to determine the contract selection award, must be prepared and publicized along with the Request for Proposals. Contact CDBG in the event of receiving less than three proposals.
k. CDBG, HUD, and the Department of Labor maintain a list of excluded bidders, including SAM.gov. Before any contract is awarded, recipients are required to contact CDBG to ensure that prospective individuals/firms are eligible for contract award. (See the Contract Management Chapter.)
l. If professional services are paid from local funds, the grantee may select the firm of choice adhering to state statutes and local purchasing policy.
m. Applicants must comply with state law, RSMo Sections 8.285-8.291, in the procurement of architectural, land surveying, or engineering services, unless the city/county has its own procedure that is stricter.
n. Only fixed price (a specified price to be paid when the items or services are delivered and accepted) may be awarded.
o. Please note that CDBG funds cannot be used to pay for services dated prior to the date of the funding approval with the exception of environmental review services procured as part of the grant administration contract.
p. The basis for selection must be documented in writing for grant files.
q. All unsuccessful bidders must be notified in writing.
r. Execute contract.

**5. Procurement by Noncompetitive Proposals**

A noncompetitive proposal is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. The mere fact that a contractor is performing other consultant services for the grantee is not in itself an adequate justification for a non-competitive proposal award. Circumstances under which a contract may be awarded by noncompetitive proposals are limited to the following.

a. After solicitation from a number of sources, competition is determined inadequate.
b. The items or services required are available only from one source.
c. The State CDBG Program authorizes the noncompetitive method.
d. A public emergency is such that the urgency will not permit a delay beyond the time needed to employ one of the other methods described above.

# GENERAL PROCUREMENT PROCEDURES

Recipients must maintain records that document the rationale for the method used for procurement, selection of the contract type, contractor selection or rejection, and the basis for the selection including cost or price. In addition, all contracts, other than micro-purchases and small purchases, shall contain provisions, which describe administrative, contractual, or legal remedies when contractors violate contract terms and provide for appropriate damages. The grantee is responsible to solicit for grant administration services. It is a conflict of interest for a grant administrator to help the grantee with the procurement of grant administration if they intend to submit a proposal. This includes developing the Request for Proposals and handling the solicitation process. The grant administrator may provide the grantee with the procurement chapter from the CDBG Administration Manual and provide samples included in the procurement chapter. The grant administrator may also suggest that the grantee contact the State CDBG program for technical assistance.

## Prohibited Forms of Restrictive Competition

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bid or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business
2. Requiring unnecessary experience and excessive bonding
3. Noncompetitive pricing practices between firms or between affiliated companies
4. Noncompetitive contracts to consultants that are on retainer contracts
5. Organization conflicts of interest
6. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement
7. Any arbitrary action in the procurement process

## Bonding and Insurance

In carrying out CDBG activities (except professional services contracts), CDBG recipients must establish bonding and insurance requirements that ensure completion of CDBG funded construction contracts in the event of contractor or subcontractor default.

For contracts exceeding $25,000, recipients must require a bid guarantee from each bidder equivalent to 5% of the bid price. This may be secured through a bid bond or a certified check. Any contract with an amount over $25,000 is required to produce documentation of performance bonding within two weeks of contract award. The contractor will obtain a performance bond for 100% of the contract price to ensure completion of the contract. Any contract with an amount over $50,000 requires the contractor to produce documentation of a payment bond for 100% of the contract price to ensure payment to all persons supplying labor and materials.

In the event of the surety performing under a takeover agreement, the bonding company must produce evidence of participation in the E-Verify program.

Grantees are free to use their requirements relating to bid guarantees, performance bonds, and payment bonds for contracts of $25,000 or less in value.

An irrevocable letter of credit from a federally insured financial institution may be used for contracts of less than $25,000. The irrevocable letter of credit cannot have an expiration date and must remain in effect for the duration of the federally funded project.

## Timeline for Construction Procurement

1. Determine that the Authority to Use Grant Funds (AUGF) has been issued for the activity or project related to the proposed construction contract. (See the Environmental Review Chapter.)
2. Prepare the specifications. CDBG bid terms and conditions and contractor certifications are to be included in all bid documents and construction contracts. Please refer to the Contract Management Chapter of this Manual.
3. Secure applicable Davis-Bacon wage rate decisions from CDBG, as discussed in the Labor Standards Chapter. Review wage decisions from CDBG to determine if any additional classifications are necessary. Contact CDBG 10 days prior to bid opening to verify that the Federal wage decision has not been changed. If changes have been made, send them as an addendum to all contractors who received the bid package.
4. Include the correct goals of the Federal Equal Opportunity Construction Contract Specifications for minorities and females in the bid document and contracts. These requirements are governed by the Federal Register regulations of October 29, 1978 and September 7, 1979. Minority participation goals are detailed in the September 7, 1979 regulations. These goals are applicable to all projects of the contractor, not just the project(s) funded in whole or in part by CDBG funds. Therefore, each construction craft and trade in the contractor's work force, which is required in an area covered by the goals and timetables, falls under these provisions. Recipients must ensure that bid documents incorporate these goals.
5. Include all items listed in the Contract Management Chapter in all specifications for bidding and contracting.
6. Recipients' attorneys are required to review the bid documents for liability purposes.
7. **Publish Request for Bids in a newspaper** of general circulation once a week for **two consecutive weeks** (14 days) prior to bid opening. Grantees must directly solicit minority and women-owned firms, as well as Section 3/DBE firms. A longer advertising period may be necessary for more complex projects to allow bidders more time to prepare their proposals. Retain a newspaper copy and/or affidavit of each advertisement in the CDBG Contract Management file. Exceptions to the publishing requirement as stated in this section must be preapproved by CDBG.
8. Addendum Procedure: If the owner or engineer finds that changes or additions to the bid packet must be made prior to the bid deadline date, an addendum must be executed. The addendum must spell out the change or addition and must be distributed to all interested bidders. This action must not take place later than 72 hours prior to the bid submission deadline. If this time period is not possible, the addendum may be distributed and the deadline must be delayed exactly one week. All bidders obtaining bid documents must be made aware of all addenda in order not to provide an unfair advantage in the procurement procedures.
9. Maintain a log of bidders who were sent or obtained bid documents. All bids received during the bidding period should be logged with the name of the bidder and the time and date of receipt. No bid may be accepted if it is late.
10. Hold a public meeting to open bids. All bids must be read aloud during this meeting. Minutes of the meeting must be maintained to document the project, the time and date of bid opening, and the bidders and bid amounts in order of opening.
11. Review all bids to determine if they are legally and technically responsive. Bidders must be evaluated as to their ability to perform as previously defined. The contract must be awarded to the **lowest, most responsible and responsive bidder**. If all the bids exceed the budgeted amount, reevaluate the specifications to determine whether one aspect of the project was inaccurately described. In this situation, it may be necessary to reject all bids.
12. Cost plus a percentage of cost and percentage of construction cost method of contracting are prohibited. **All contract fees shall be based upon a unit price or "cost-plus-fixed-fee."** All contracts must include a total dollar amount.

13. Negotiation with bidders prior to bid opening is prohibited. **Negotiation with bidders when bids exceed available funding**: If the bid from the lowest responsible and fully responsive bidder exceeds available funds, the grantee may negotiate the quantities of unit price bid items to be installed with such bidder to obtain a contract price within available funds. "Available funds" are those budgeted by the grantee for the requirement and designated as such prior to the issuance of the Advertisement for Bid. Negotiation on the part of the bidder is strictly voluntary. To ensure fair and open competition among bidders, the State of Missouri CDBG program views negotiation to be defined as reducing contract units at the bid unit prices and **should not exceed 25% of the total contract bid amount**. It should be confirmed that any reduction of contract units would not result in a change of the low bidder. If the negotiations to reduce the quantities of unit price items should result in a change of the low bidder then all bids should be rejected and the project design should be modified to reduce costs and the project should be re-bid.
14. The Grantee can either reject all bids or provide needed funds from other sources. Prior to the bid process, the Grantee can take action to help mitigate problems that arise from bids that exceed allowable funds. If the Grantee has reason to believe that available funds will be inadequate for the full scope of proposed work, it can request deductible or add-on alternatives in the bid process. When deductible or add-on alternatives are requested, the bid document must specify the method and order in which alternatives will be applied in determining the low bid. Whenever estimated costs are very close to the amount of available funds or the cost estimates are based on roughly comparable projects, the deductible alternative approach is very useful. It can eliminate the need to respecify the bid package and repeat the entire bid process with unavoidable delays in the project. Do not use deductible alternatives that reduce the original scope of the project that was funded.
15. Once all bids have been received, **references should be checked**. The only way for a community to secure good information about how a person or firm performed similar duties is to call the other cities and counties and ask their opinions.
16. Prior to awarding the contract, the Grantee must obtain verification of contractor eligibility from CDBG. Recipients should request a written letter confirming eligibility from CDBG. This process is referred to as a debar check. CDBG will check for an active registration (required for all contracts over $25,000) and any active exclusions on SAM.gov. In addition, CDBG will verify that the contractor is registered with the Missouri Secretary of State, not debarred by the Missouri Office of Administration, and has a valid certificate to do business in the State of Missouri. You must also check with CDBG to ensure that the bonding company that the contractor is using to provide the payment and performance bonds is on the Department of the Treasury's Listing of Approved Sureties. It is vital that you furnish the correct spelling and the exact name of the firm(s) for all of the above.
17. Award the contract. The contract must be awarded to the lowest, most responsible and responsive bidder. If the contract is awarded to other than the lowest bidder, a written statement documenting valid reasons why the lowest bidder(s) was not selected must be prepared and submitted to CDBG for approval prior to contract award. Ensure that all compliance provisions and environmental clearances have been met before awarding the contract.
18. Send a Start of Construction Notice to CDBG within ten (10) days of the contract award. This notice is included in the Labor Standards Chapter.
19. A pre-construction conference must be held to acquaint the contractor with Federal and Missouri requirements such as the Labor Standards Provisions, Equal Employment Opportunity Requirements, and Section 3. Requirements for weekly wage records and employee interviews should be specifically addressed at this conference. It is also appropriate to brief the contractor on how payments will be processed, what forms are to be used, and how the CDBG office will monitor financial, program, and contract compliance. A pre-construction conference report should be prepared to document the subject(s) discussed at the meeting and placed in the Contract Management file.

20. Send a Notice to Proceed to the contractor. This document officially notifies the contractor that construction may begin.
21. A copy of the Certificate for Acceptance and Final Payment must be obtained from the project engineer to ensure completion of the project. This certificate must cover 100% of the work included in the project. Ten percent of the construction inspection funds will be withheld until a Certificate for Acceptance and Final Payment has been issued.

# DED CONFLICT OF INTEREST POLICY

The Community Development Block Grant Program, Department of Economic Development, State of Missouri, developed a conflict of interest policy in August 1983, relating to participation in contract selection, award, and administration. Since that time, this issue has arisen in other areas of the program. The State CDBG program is similar to 2 CFR 200.318(c) of the Federal Regulations (conflict of interest) for the Community Development Block Grant Program.

**Standard of Conduct Involving Conflict of Interest**

1. **Persons Covered**: The conflict of interest provisions of this policy shall apply to any person who is an employee, elected or appointed official, agent, consultant (including grant administrators; engineers and architects), officer, or any immediate family member* or partner of the above, of the recipient, or of any designated public agencies, or sub-recipients which are receiving funds from the Missouri Community Development Block Grant program.
    a. Immediate family is defined as spouse, son, daughter, sibling, stepsibling, father, mother, grandparent, grandchild, stepchild, adopted child, foster child, and wards.
2. **Applicability**: In the area of procurement of supplies, equipment, construction, and services by recipients, sub-recipients, or designated public agencies, the conflict of interest provisions of this policy shall apply. Such cases include the acquisition and disposition of real property and the provisions of assistance by the recipient or sub-recipients to individuals, businesses, and other private entities in the form of grants, loans, or other assistance through eligible activities of the program which authorize assistance.
3. **Conflicts Prohibited**: Except for approved eligible administrative or personnel cost, no persons described in 1 above who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under the State program or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the State CDBG Economic Development Program, the above restrictions shall apply to all activities that are a part of the funding approval for all projects, and shall cover any such interest or benefit during, or at any time after, such person's tenure.
4. **Exception**: The State may, on a case by case basis, grant an exception to Section 3 above after a determination has been made by the State that the exception will serve the purposes of the Housing and Community Development Act of 1974 and the State's adopted Final Statement for each year therefore only after the recipient has provided to the State the following written documentation:
    a. A disclosure of the nature of the conflict accompanied by documentation that there has been a public disclosure of the conflict and a description of how the public disclosure was made. Public disclosure may include either a public hearing or an appropriate comment period; public hearings require 5 full days of notice. Acceptable documentation would include a copy of the published notice for the public hearing, and minutes of the public hearing including comments; and
    b. An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

**Standard of Determining Exception**

In determining whether to grant an exception, after the above two items have been received, the State shall consider the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available
2. Whether an opportunity was provided for open competitive bidding or negotiation

3. Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class
4. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question
5. Whether the interest or benefit was present before the affected person was in a position as described in Section 3
6. Whether undue hardship will result either to the recipient or the person affected when weighted against the public interest served by avoiding the prohibited conflict
7. Any other relevant considerations

If after all considerations, the determination is made to grant an exception, the State shall issue a waiver noting such exception and the conditions and basis of the issuance of the same.

# SAMPLE CONFLICT OF INTEREST PUBLIC HEARING

# CITY OF ANYTOWN

The City of Anytown will hold a public hearing to discuss conflict of interest issues on Monday, January 30, 2000 at 6:00 pm at the Anytown City Hall. The City is interested in obtaining citizens comments regarding a possible conflict of interest that may arise during the course of the Community Development Block Grant (CDBG) project that was awarded on January 1, 2000. Activities include the demolition of vacant, dilapidated structures within the City. The parents of an employee of the city own one of the units to be demolished.

All citizens are encouraged to attend in order to comment. For more information, or if you require special accommodations at the hearing, contact City Clerk Jane Doe at 573-555-1234.

# SAMPLE

# REQUEST FOR PROPOSALS

# PRESELECTION OF PROFESSIONAL ADMINISTRATION SERVICES

The City/County of (XXXX) requests proposals for administrative services to assist in a proposed project financed with $(insert dollar amount) in Community Development Block Grant (CDBG) funds. (Insert Project Description.)

Administration services shall include, but are not limited to, the implementation of the project in conformance with the following CDBG compliance area: *NOTE! Must insert applicable areas of compliance applicable to the project.*

Information provided to the city/county shall include at a minimum:

1. The specialized experience and technical competence of the firm with respect to CDBG grant administration. *IF APPLICABLE please include "and related work on jointly funded projects with RD and DNR"*
2. The past record of performance of the firm with respect to such factors as accessibility to clients, quality of work, and ability to meet schedules
3. The capability of carrying out all aspects of grant related activities
4. Cost of services
5. References from previous clients of related work with the firm within the past five years
6. Documentation of compliance with E-Verify requirements

*PLEASE IDENTIFY the criteria above that shall receive priority weighting in the final selection.*

The above information should be submitted no later than (DATE), (TIME), (named location & address). For more information contact city clerk/county clerk at (PHONE NUMBER).

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of proposals from minority and women-owned firms.

# SAMPLE FOR COMBINED PRESELECTION

# REQUEST FOR QUALIFICATIONS

# PROFESSIONAL ENGINEERING SERVICES:

# PRELIMINARY ENGINEERING, DESIGN, AND INSPECTION SERVICES

The City/County of (XXXX) requests qualifications for preliminary engineering services, subsequent engineering design services, and construction inspection services, to assist in a proposed public facilities project to be partially financed with Community Development Block Grant (CDBG) funds. The remainder of the project is being financed by the city's/county's $(XXXX) (if applicable - bond issue.) The project consists of (identify project scope).

Information provided to the city/county must include at a minimum:

1. The specialized experience and technical competence of the firm with respect to water system improvements or related work
2. The capacity and capability of the firm to perform the work in question, including specialized services, within a period of twelve months beginning *(INSERT DATE)*
3. The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules
4. The firm's proximity to and familiarity with the area in which the project is located
5. References from previous clients of related work with the firm within the past five years
6. *IF APPLICABLE TO THE PROJECT "References and experience on jointly funded CDBG/RD/DNR grant projects"*
7. Documentation of compliance with E-Verify requirements

The firm will be selected based on the above qualifications. Once the most qualified firm is selected, a cost for preliminary engineering will be negotiated separately from the cost for engineering design. Contracting for these two activities shall occur separately and costs/payments associated with each will be clearly defined. Contracts executed for engineering design and construction inspection services shall be contingent upon the award of the grant and commitment of all project funds.

The above information should be submitted no later than (DATE), (TIME), (named location & address). For more information, contact city clerk/county clerk at (PHONE NUMBER).

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of proposals from minority and women-owned firms.

# SAMPLE

# REQUEST FOR PROPOSALS

# DEMOLITION INSPECTION SERVICES

The City/County of (XXXX) requests proposals for demolition inspection services to assist in a potential project financed in part with Community Development Block Grant funds. The project consists of the demolition of # residential and # commercial vacant dilapidated structures throughout the community. Services requested include the following:

1. Conduct and complete a checklist to document a preliminary inspection of each structure and determine deficiencies in each structure
2. Prepare a scope of work and obtain an assessment from the asbestos inspector
3. Prepare cost estimate, bid documents and other contract provisions
4. Collaborate with the City, grant administrator and asbestos inspector as necessary to ensure CDBG requirements and DNR asbestos and waste disposal regulations, are met
5. Assist the City with regard to the solicitation bids
6. Represent the City during the demolition and clean up phase of the project
7. Prepare change orders
8. Approve requests for payments
9. Inspect project progress
10. Provide Certificate of Completion
11. Report to the City periodically on the progress of the project
12. Attend monitoring visits conducted by CDBG

Information provided to the city/county shall include:

1. The specialized experience and technical competence of the firm or person with respect to working on CDBG funded demolition projects and/or other demolition projects.
2. Experience in building construction trades. The minimum experience required includes at least one-year experience in one of the following: building construction supervisory position, trades instructor, full time city code inspector or as a demolition inspector.
3. The past performance of the firm or person with respect to such factors as accessibility to clients, ability to meet schedules; communication and coordination skills.
4. Cost of services per unit and total price for the following activities: Inspection of structures, preparation of project specifications, bid solicitation/tabulation and inspection monitoring for demolition work and finished grade.
5. References from previous clients of related work with the firm within the past five years.

The firm will be selected on the above qualifications. The above information should be submitted no later than (DATE), (TIME), (named location & address). For more information, contact city clerk/county clerk at (PHONE NUMBER).

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of proposals from minority and women-owned firms.

# SAMPLE

# REQUEST FOR PROPOSALS

# ASBESTOS INSPECTION

The City/County of (XXXX) requests proposals for a Missouri certified asbestos inspector to assist in a demolition project funded in part with Community Development Block Grant. The project consists of the demolition of # residential and # commercial vacant dilapidated structures.

Inspection services shall include the identification of any and all materials that may need abatement and proper disposal to conform with all applicable MO DNR regulations.

Information provided to the city/county must include:

1. The specialized experience and technical competence of the firm with respect to asbestos assessment and inspection services and related work. The firm must be currently licensed and remain licensed with Missouri Department of Natural Resources until project completion.
2. Past performance of firm with respect to such factors as accessibility to clients, quality of work, and ability to meet schedules.
3. Knowledge of and compliance with State of Missouri Department of Natural Resources, reporting, and notification documents.
4. Cost of services should be calculated on a per unit basis.
5. References from previous clients of related work with the firm within the past five years.
6. Copy of current MO DNR Asbestos Inspection license

The firm will be selected on the above qualifications. The above information should be submitted no later than (DATE), (TIME), (named location & address). For more information, contact city clerk/county clerk at (PHONE NUMBER).

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of proposals from minority and women-owned firms.

# SAMPLE

# ADVERTISEMENT FOR BID

# DEMOLITION AND/OR ASBESTOS REMOVAL

The City/County of (XXXX) will be accepting sealed bids from qualified contractors for the demolition and/or asbestos removal of # of residential and # of commercial structures at the office of (named location & address) until (DATE), (TIME), and then at said office publicly opened and read aloud. NO FAXED BIDS WILL BE ACCEPTED.

Asbestos inspection of the structures to be demolished has already occurred; report is available to bidders. The city/county is bidding demolition and asbestos removal together. The demolition contractor must be licensed for asbestos removal, or must partner with a licensed asbestos contractor. After the removal of the asbestos by the licensed asbestos contractor, the demolition contractor would complete demolition of the structure.

Specifications, Form of Contract, Forms of Bid Bond, Performance and Payment Bond and other contract documents may be examined at:

(Named location)

(Address)

(City, State, Zip)

The city/county reserves the right to waive any informality or reject any or all bids.

Each bid must be accompanied by a bid guarantee equivalent to 5% of the bid amount. This can be secured by a bid bond or certified check and must be included with the bid.

Attention of bidders is particularly called to the requirements as the conditions of employment to be observed and Davis Bacon and/or State Prevailing wage rates to be paid (for asbestos abatement, if contract is over $2,000) under the contract, Section 3-DBE, Segregated Facility, Section 109, E.O. 11246, and compliance with the OSHA 10 hour construction safety course. Documentation of compliance with E-Verify is required.

No bidder may withdraw their bid within ## days after the actual date of bid opening.

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of bids from minority and women-owned firms. For more information, contact city clerk/county clerk at (PHONE NUMBER).

The following sample of an evaluation matrix is for your use as appropriate for your specific situation. Samples provided by CDBG should not replace advice/review from an attorney. The weights and rating values assigned should be the same as those listed in the Request for Proposals. Each rater should complete an evaluation for each firm submitting a proposal.

The highest number represents the most value for each column. WEIGHT column: 1-10 points depending on value to the project and level of importance (assigned by rating group and must be identical on all evaluations), in each area, to the particular project. RATING column: 1-5 points. In this column you rate the firm based on each qualification. Multiply the rating by the weight for each category and enter the total. Add all totals to establish final score for firm.

Name of Firm:

Contact Person:

Project Description

Individual Evaluation

| | WEIGHT 1-10 | X | RATING 1-5 | = | Total |
|---|---|---|---|---|---|
| Specialized Experience & Competence related to CDBG | | X | | = | |
| Past record of performance of firm with respect to such factors as accessibility to clients, quality of work, and ability to meet schedules | | X | | = | |
| Capability of carrying out all grant related activities | | X | | = | |
| Cost Comparison | | X | | = | |
| References | | X | | = | |
| Met requirements for submittal | | X | | = | |

Name of Reviewer:

Grand Total:

## SAMPLE

# COUNTY PROCUREMENT AND CONFLICT OF INTEREST POLICY

**BE IT RESOLVED**: that the County of _____ hereby notifies the Department of Economic Development that its procurement is completed in accordance with Chapter 50 of the Missouri Revised Statutes, County Finances, Budget and Retirement Systems, Sections 50.760 to 50.790, including all other applicable sections and applicable waivers that have been established under Section 50.783.

**FURTHER BE IT RESOLVED**: that the County of _____ operates in accordance with Chapter 105 of the Missouri Revised Statutes; Public Officers and Employees – Miscellaneous Provisions regarding conflict of interest of any person who is designate as a decision-making public servant.

**SIGNED THIS _____DAY OF _____20__**.

_____

Presiding Commissioner

Attest:

_____

County Clerk

# SAMPLE

# ORDINANCE NO. _____

# PROCUREMENT POLICY

# FOR THE CITY OF ANYTOWN, MISSOURI

**Section 1.** The purchasing agency shall be appointed with the approval of Mayor and City Council. The purchasing agent, when authorized, shall procure for the city the bids for all supplies and contractual services needed by the city in accordance with the procedures prescribed by this ordinance.

**Section 2.** Duties Generally. In addition to the purchasing authority conferred in the preceding section, and in addition to any other powers and duties conferred by this, the purchasing agent shall:

a. Act to procure for the city the highest quality for all supplies and contractual services at the least expense to the city;
b. Exploit the possibilities of buying "in bulk" so as to take full advantage of discounts;
c. Inspection or supervise the inspection of all deliveries with regard to quantity, quality, and conformance to the specifications.

**Section 3.** Conflict of Interest. See "Code of Conduct Policy" for the guidelines affecting this topic.

**Section 4.** Gifts and Rebates. The purchasing agent and every other officer and employee of the city are expressly prohibited for accepting, directly or indirectly, from any person, company, firm, or corporation to which any purchase or contract is or might be awarded, any rebate, fit, money, or anything of value whatsoever, except where given for the use and benefit of the city.

**Section 5.** Purchases of $500 or Less. The purchasing agent, Mayor, Superintendent of Water & Maintenance, and President of Board is authorized to purchase items that cost $500 or less without City Council approval.

**Section 6.** Purchase in Excess of $500. Mayor and City Council must approval all purchases in excess of $500.

**Section 7.** Bidding.

a. If the consideration is not more than $2,000, bids shall be solicited in the most expedient manner with due regard for competitive prices and quality.
b. If the consideration is for more than $2,000 but less than $10,000 at least two (2) bids shall be solicited by mail or telephone require from two (2) prospective vendors, from which the lowest responsible bidder (Refer to Section 9), with proper qualifications shall be accepted. A record of quotations shall be maintained. The purchase shall be approved by the Mayor and City Council.
c. If the consideration is for more than $10,000, the inviting bids shall be published one time only in an official newspaper at least two weeks preceding the last day set for the receipt of bids. The bid shall be awarded to the lowest responsible bidder (Refer to Section 9), with proper qualifications. The inviting bid shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place of opening bids. The purchase shall be approved by the Mayor and City Council.
d. For all supplies and contractual services estimated to cost in excess of $3,500, a written contract should be obtained from the qualified bidder. The Mayor and City Council shall award the contract for supplies and contractual services.

**Section 8.** Bid Opening Procedure. Bids shall be submitted sealed to the city and shall be identified as "bids" on the envelope. They shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be posted for public inspection and a tabulation report on file.

**Section 9.** Lowest Responsible Bidder. The city reserves the right to reject any and all bids. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder," in addition to price, the following shall be considered:

a. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
b. Whether the bidder can perform the contract or provide the service promptly, or without delay or interference;
c. The character integrity, reputation, judgment, experience, and efficiency of the bidder;
d. The quality of performance of previous contracts or services; and,
e. Based on discretion of the Board.

**Section 10.** Justification of Award. When the award is not given to the lowest responsible bidder, a full and complete statement of the reasons for placing the order elsewhere shall be completed and kept on file.

**Section 11.** Tie bids. If all bids received or the lowest bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a bidder approved by the Board.

This Ordinance, passed by the Council Members of the City of Anytown, Missouri, on this _____ day of _____, 20__.

_____

*Typed Name below signature, Mayor*

Attest:

_____

*Typed Name below signature, City Clerk*

# SAMPLE

# CODE OF CONDUCT POLICY

# FOR THE CITY OF ANYTOWN, MISSOURI

**PURPOSE**

The purposes of this Code of Conduct is to ensure the efficient, fair, and processional administration of Federal grant funds in compliance with the State of Missouri CDBG Program policy and other applicable Federal and State standards, regulations, and laws.

**APPLICATION**

This Code of Conduct applies to all officers, employees, or agents of the City of Anytown, Missouri engaged in the award or administration of contracts supported by Federal grant funds.

**REQUIREMENTS**

No officer, employee or agent of the City of Anytown, Missouri shall participate in the selection, award, or administration of a contract supported Federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer or agent;
2. Any member of his/her immediate family;
3. His/her partner; or
4. An organization which employs, or is about to employ, any of the above

Has a financial or other interest in the firm selected for award.

The City of Anytown, Missouri officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

**REMEDIES**

To the extent permitted by Federal, State, or Local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City of Anytown, Missouri's officers, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents.

Passed and adopted this ____ day of _____, 20____.

_____

*Typed Name below signature, Mayor*

Attest:

_____

*Typed Name below signature, City Clerk*

# CHAPTER VI

# CONTRACT MANAGEMENT

## INTRODUCTION

As stated in the Procurement Chapter, recipients of CDBG funds will procure a vast range of materials and services to successfully complete their project activities. Following proper procurement and selection, each of these services will require the execution of a formal and binding contract. This chapter will suggest avenues that the grantee may employ to successfully manage their contracts.

Since the process of contracting is so closely related to procurement, labor standards, and civil rights, referencing those relevant chapters within this manual may serve to assist the grant administrator. If any material is repeated between two or more chapters, it is done only to add clarity and promote understanding.

## PROPER FLOW OF GRANT DOLLARS

From the CDBG Program perspective, the introduction of contracting starts at the source of the dollars. Every year, the State of Missouri enters into a contractual relationship with the Department of Housing and Urban Development accepting receipt of the Community Development Block Grant funds (as well as the Emergency Shelter Grant, HOME, HOPWA, and McKinney funds). The contract with HUD outlines the necessary compliance measures, eligibility standards, and intended use of the funds. The State is held accountable to the terms described in the contract and the applicable Federal laws.

When the Department of Economic Development awards those same CDBG dollars to the cities and counties, another contract is executed called the “grant agreement.” In that contract, CDBG describes to the community the necessary compliance measures, eligibility standards, etc. that are expected to be fulfilled at the local level in turn for the receipt of the funds. The contract also protects the financial interests of the community. An additional contract, in the form of a participation agreement is executed with economic development projects between the recipient, the company, and CDBG.

Again, in turn, when the community expends the same grant dollars for work done relative to the completion of the project, it is the contract which spells out the acceptable performance measures and standards required for the professional service providers, material suppliers, or construction contractors to receive the funds.

The grantee can start to see the formally obligated path of public dollars and the critical standard at which they are held.

## RESPONSIBLE PARTIES

The primary reasoning behind proper contract execution is the protection of the rights of the parties involved. The contract serves as the base document that describes the specific responsibilities of everyone performing a function in the completion of the activity. The description of contract terms range from the scope of services for specifications of construction to the timeliness of payment. The contract maintains an important interest for all parties and should be regarded in that manner.

The grantee must determine who has legal authority to enter into and sign the contract for the community (Mayor/Presiding Commissioner).

## LEGAL REVIEW

Many cities and counties employ the services of an attorney to write and review all contractual obligations. The Certificate of Owner’s Attorney may be required by individual grantee ordinance, resolution, or policy. CDBG will not provide legal advice to a community, but may provide, at the local request, examples of “standard” contracts and contract language, which may be used in certain situations. These documents are

presented only as samples for use by CDBG grantees. **The final decision and responsibility of the terms of the contract lies with the community.**

## CONTRACT MANAGEMENT

It is the responsibility of the community (grantee) to manage the contracts executed during a CDBG funded project. Contracts do not manage themselves. It takes substantial time and commitment by a designated member of the community with a good understanding of the project.

Contract management is a large part of any project's success. It is important that all parties in a contract are held to the roles and responsibilities for which they are receiving payment. Project delays or problems are often the result of misunderstandings, assumptions of the responsibilities of different parties in a contract, or of parties not performing their work to a standard. To correct these problems, the community must make contract language clear and must take the management of the contracts seriously as a working role.

Before you enter into a contract, you must ensure that all contracts are written so that they are based on a lump sum or unit price. Please be careful of any hidden or unexpected costs or additional fees that may have been added to the contract. Such fees may include per hour additional fees for surveying, obtaining easements, etc. Often grantees may think these costs are part of the base contract and have not allowed for the additional cost in their budget.

The engineering firm or the administrative firm most often prepares professional service contracts and construction contracts. It is the responsibility of the grantee to read and understand the contract documents. The contract documents should be reviewed to ensure that the expected scope of work and the agreed cost is included.

If a professional services contract is preselected and the contract is entered into, it is required to include the following contingency clause statement: **"In the event that grant funds are not awarded to Owner by the CDBG program, this agreement shall be terminated by the Owner."**

## CONTRACT CONTENT

The CDBG Program does have both contract documents and specific language, which is a standard part of every contract, executed involving CDBG dollars. Please note that while the content is required, the format is not. Many engineering firms and legal firms provide contract language in different formats. Use of these formats is certainly acceptable to CDBG. **The forms provided by CDBG are samples only and are meant to be a guide.** Any document that is signed by the grantee and has legal implications and consequences should be carefully reviewed (by an attorney is encouraged) with respect to its completion. **If a contract is for a project jointly funded by USDA – Rural Development and CDBG, contact your RD office for those contract documents. Additional language is required to comply with both agencies' requirements.**

To determine which documents are required in which contracts, it is helpful to determine the type of work (professional services versus construction contractors) and the amount of the contract ($2,000, $10,000, $25,000, $100,000). Thinking in terms of the procurement procedure used to acquire the service will assist the grantee toward proper contract selection and execution.

1. **Professional services contracts** shall include the following civil rights laws, regulations, and executive orders: (Terms and Conditions)
    - Title VI of the Civil Rights Act of 1964
    - Section 3 (applicable over $100,000)
    - Section 109, Housing and Community Development Act of 1974
    - Section 503 of the Rehabilitation Act of 1973
    - Section 504 of the Rehabilitation Act of 1973
    - Age Discrimination Act of 1975
    - Executive Order 11246 (applicable over $10,000)

- Affirmative Action Plan
- Affidavit Section 285.530, Revised Statues of Missouri

2. **Construction contracts** shall include the following civil rights laws, regulations, and executive orders:
    - Title VI of the Civil Rights Act of 1964
    - Title VIII of the Civil Rights Act of 1968
    - Section 3 language (applicable over $100,000)
    - Section 109, Housing and Community Development Act of 1974
    - Section 503 of the Rehabilitation Act of 1973
    - Section 504 of the Rehabilitation Act of 1973
    - Age Discrimination Act of 1975
    - Executive Order 11246 (applicable over $10,000)
    - Executive Order 11063
    - Contractor and subcontractor certifications on Equal Employment Opportunity
    - Copeland Anti-Kickback Act
    - Anti-Lobbying (applicable over $100,000)
    - Contract Work Hours and Safety Standards Act (applicable over $100,000)
    - Davis Bacon Act (applicable over $2,000)
    - Architectural barriers
    - Clean Air and Water Acts (applicable over $100,000)
    - Lead-Based Paint Poisoning Prevention Act
    - Bid Bonds (equal to 5% of bid)
    - Performance bonds (applicable over $25,000, equal to 100% of contract price)
    - Payment bonds (applicable over $50,000, equal to 100% of contract price)
    - Affirmative Action Goals
    - Certificate of Contemplated Minority, Women, and Section 3 Hires and Business Utilization
    - Federal Labor Standards Provisions (HUD Form 4010)
    - CDBG General Conditions (or equivalent)
    - HUD Supplemental Conditions
    - Certificate of Owner's Attorney

3. **Contents of Bid Packet for Construction Contracts**
    - Advertisement for Bids form
    - Information for Bidders
    - Missouri Public Works Project Contractor Check-Off List
    - Bid Bond form
    - Bid for Lump Sum Contracts form
    - Bidder Qualification
    - Bidder EEO Certification
    - Certificate of Contemplated Minority, Women and Section 3 Hires and Business Utilization
    - Subcontractor EEO Certification
    - Certification Regarding Government-Wide Restriction on Lobbying
    - Bonding and Insurance Requirements
    - The executed Contract Agreement form (blank)
    - Certificate of Owners Attorney
    - Engineer/Consultant's Certification For Acceptance and Final Payment
    - CDBG Program General Conditions
    - Affidavit Section 285.530, Revised Statues of Missouri

- Federal Labor Standards Provisions
- U.S. Department of Housing and Urban Development Supplemental General Conditions
- Appendix I Summary of Civil Rights Laws, Executive Orders and Regulations
- Wage Rate Decisions - Missouri and Federal
- Specifications/Drawings/Maps/Site locations

**Additional forms, clauses and references in any type of contract should include, but not be limited to:**

1. Executed Contract Form: the binding agreement with appropriate signatures of all parties attested and dated.
2. Certificate of Owner's Attorney: a record of the local attorney review and acceptance of the terms of the contract.
3. Or Equal Clause: language that tells the bidder that any references to brand names are solely for explanation/clarification and that any and all equals are allowed.
4. Required Levels of Insurance: information for the bidder listing all necessary types and levels of insurance: worker's compensation, public liability and property damage, vehicle liability, special hazards, builder's risk, etc.
5. Subcontracting: a statement of the terms under which any part of the contract may be subcontracted.
6. Architects/Engineers Authority: provides information to the contractor that the owner has given the decision-making authority, regarding specifications relative to the contract, to the engineer or architect.
7. Conflicting Conditions: provides rules for which condition applies when contract documents are found to have two statements in conflict.
8. Anti-Lobbying, Over $100,000: the form preventing the contracted agent from using any of the CDBG funds to lobby a member of Congress.
9. Specifications: the exact detail of the work to be completed.
10. Period of Service: the time for which the contract is valid and the date that the work is to be completed.
11. Scope of Services: the detailed activities that the contracted agent is expected to perform for payment under the terms of the contract.
12. Clarification of Specific Milestones: the date and amount of pay allowed for specific levels of work completed successfully.
13. Address of The Work Sites: the exact project site location(s).
14. Schedule of Payment: the allowed drawdown of funds to be paid under the contract (often coincides with the milestones).
15. Applicable Retainage (Usually 5%): the amount held by the community until the project is 100% complete, used as a control device.
16. Final Inspection: the act of the responsible party(ies), usually the engineer, to inspect the work completed and recommend final payment.
17. Engineer/Consultant's Certification for Acceptance and Final Payment: To be completed by the project engineer once final inspection of all work under the contract documents has been completed in accordance with the drawings and specification and is functioning properly. Recommendation for final payment.
18. Termination: the circumstances under which designated parties may terminate the contract, usually described for cause or convenience.
19. Changes: describes the only process or circumstances where changes may be approved by owner and result in payment.
20. Extras: describes the only process or circumstances where owner can add extras to work and result in payment without invalidating contract.
21. Completion Time/Liquidated Damage: spells out completion date expectations for work and prescribes level of daily monetary penalty to contractor for days beyond prescribed date.

22. Correction of Work: provides information to contractor that outlines the correction process and expense if work is found by Engineer or Architect inspection to be deficient.
23. Personnel: requires professional service provider or contractor to employ adequate, qualified personnel, licensed to complete work under the terms of the contract.
24. Assignability: limits any party's ability to assign the contract to any other person or firm without the prior written consent of all parties to the contract.
25. Reports and Information: describes the necessary written reports expected to be furnished by the professional service provider or contractor to the community and the times that such reports are due.
26. Records and Audits: requires the maintenance of records (personnel, property, and financial) to ensure proper accounting, and the conditions under which they are to be made available.
27. Findings Confidential: requires the permission of the community before any records or reports are provided to any persons not a party to the contract.
28. Copyright/Patent: limits copyright and patent activities by the professional service provider or contractor.
29. Weather Conditions: describes responsibility of the contractor for protection of work completed from weather damage and the financially responsible party if damage occurs.
30. Compliance with Local Laws: spells out to the professional service provider or contractor the necessary compliance with local, State, and Federal laws.
31. Interest of Parties: clause defines and prohibits conflicts of interest, financial gain by any party to contract.

## COMMON RULES REGARDING CONTRACTING (WITH CDBG MONIES)

1. All services, professional, or construction, paid in whole or in part with CDBG funds, require the execution of a formal contract.
2. The use of CDBG dollars, regardless of the amount, for payment of any service under contract in a grant, initiates the contracting requirements described in this chapter. The total amount of the contract will often indicate the proper documentation to be included in the contract.
3. All contracts should contain a clear, concise, and detailed description of the:
    a. scope of work
    b. total cost
    c. duration or life of the contract
    d. compliance requirements
    e. reporting responsibilities
    f. contract content paragraphs listed above
4. All contracts that are found to be incomplete at the time of monitoring may require a contract amendment to correct the deficiency.
5. All contracts executed prior to funding date must have a contingency clause.
6. All contracts requesting payment for activities not clearly defined in the scope of services may be denied CDBG funding.
7. It is the responsibility of the community to manage all contracts executed for CDBG funded projects.
8. All contracts using CDBG funds for payment must pass a cost reasonableness test.

## ACCEPTABLE CONTRACT COST STRUCTURES

All construction contract fees shall be based upon a lump sum or unit price. All professional service contracts shall be based upon a lump sum. Cost plus a percentage of cost and percentage of construction cost methods are prohibited.

## ALTERNATIVE DEDUCTIBLES/ALTERNATE ADD-ONS IN CONSTRUCTION BIDDING

In an effort to remain flexible in the bidding process for construction activities, the grantee may set in place alternative deductibles or alternate add-ons. These items must be clearly marked as such and, in the event of

bids received over budget, may be "deducted" from the scope of the project, or in the event of bids received under budget, may be "added" to the scope of the project. All alternative deductibles/additions must be assigned a number in order of preference to be eliminated/added. Any elimination/additions of these items must follow that numerical guide (e.g., Item #2 may not be deducted/added prior to Item #1). No items may be eliminated from/added to a bid process if they were not initially indicated as an alternative deductible or alternate add-on. Alternate deductibles should include, but not be limited to, items the grantee may be able to complete on its own or items that would not have an adverse effect on the project if omitted.

## ADDENDUM PROCEDURE

If the owner or engineer finds that changes or additions to the bid packet must be made prior to the bid deadline date, an addendum must be executed. The addendum must spell out the change or addition and be distributed to all interested bidders. This action must not take place later than 72 hours prior to the bid submission deadline. If this time period is not possible, the addendum may be distributed and the deadline may be delayed exactly one week. All bidders obtaining bid documents must be made aware of all addenda in order not to interrupt the procurement procedure.

## AMENDMENT PROCEDURE

If, during the life or duration of any formal contract, the parties agree to a change in the design, duration, cost, or any of the terms of the contract, a formal amendment must be executed. For this amendment to be valid and recognized by CDBG, it must be in writing, signed, and attested by both parties and attached to all original contract documents. The grantee may require review by their attorney prior to implementing the process. Any changes or change orders that directly affect the use of CDBG dollars, the scope of the project, or greatly changes the duration of the contract should be reviewed with a CDBG Compliance Specialist prior to execution.

Reports should be prepared and submitted by each contractor whenever it is determined that any change in the design, cost, or duration of the project is necessary. Changes in the project which increase the cost of the approved CDBG budget line item amount must first be approved by CDBG.

## AWARD OF CONTRACT

Communities should award contracts relevant to CDBG funded projects in the same manner as they would if using local funds. The required process for entering into contracts (which may be set by local ordinance or resolution) should be reviewed and used for CDBG projects. If the community requires attorney review and board approval prior to signing any contract, then that method should be practiced with CDBG projects as well.

Contact CDBG prior to the award of any contract in order to clear the proposed individual/firm/contractor of the following items:

1. Federally Debarred Contractors: Before the grantee can sign a contract with a proposed entity, the grantee must ensure that the entity is not on the U.S. Department of Housing and Urban Development's Limited Denial of Participation, HUD Funding Disqualifications and Voluntary Abstentions list. There must also be an active registration on SAM.gov for all contracts over $25,000, and there cannot be any active exclusion listed on SAM.gov either.
2. Contractors Licensed to Do Business in Missouri: All professional service contracts and construction contracts paid for with CDBG funds must use firms/businesses that are licensed to operate in the State of Missouri. No grant funds will be released to pay businesses that do not hold this license.
3. Businesses in Good Standing with the Secretary of State: All licensed businesses must be in good standing with the Secretary of State's office if they are to be paid with CDBG funds.
4. State Debarred Contractors: Before the grantee can sign a contract with a proposed entity, the grantee must ensure that the entity is not on the Office of Administration's list of Debarred Contractors or the Department of Labor and Industrial Relations' Contractor Debarment List.

5. Department of Treasury's Listing of Approved Sureties: The bonding company used by the contractor to provide payment and performance bonds must be listed with the Department of the Treasury's Listing of Certified Companies.

## INTERNAL CONTROL

Proper internal control for each contractor may include a contract file that includes the following:

1. A signed contract and amendments or change orders
2. A schedule of payments supported by:
    a. Copies of time sheets or payroll records
    b. Copies of checks or transfer notifications
    c. Copies of invoices
3. All project-related correspondence
4. Property records (where appropriate)
5. Any notice of cancellation, termination, or suspension of the contract
6. All field inspection reports and employee interviews
7. Other data as required by the recipient to properly administer the contract

## ENGINEER/CONSULTANT'S CERTIFICATE OF COMPLETED WORK

A copy of the Certificate for Acceptance, and Final Payment, signed by the project engineer/consultant, must be submitted to CDBG prior to project closeout. This certificate must cover all work included in the project (regardless of funding source), including grantee cash and in-kind. The certificate must state that work has been completed in accordance with drawings and specifications and is functioning properly with the recommendation for Final Payment.

# SAMPLE AGREEMENT BETWEEN GRANTEE AND SUBGRANTEE

This Agreement, made and entered into this _____day of _____, 20____, by and between _____, hereinafter called the "Grantee," and _____, hereinafter called the "Sub-grantee."

Whereas, the Grantee received a Community Development Block Grant from the State of Missouri, Project No. _____, and it is the Grantee's desire to relinquish certain responsibilities as allowed by the program and the State statutes;

Whereas, the Sub-grantee will benefit from the grant proceeds and finds it in the best interest of both parties to assume these responsibilities;

Now, therefore, the parties hereto agree as follows:

1. The Sub-grantee shall assume all grant responsibilities listed on the Grantee's Grant Agreement, dated _____, 20____, and attached hereto, with the exception of (8), (14), (15), (16), which both parties understand cannot be assumed by the Sub-grantee;
2. In addition to the above, the Grantee agrees to retain all financial responsibilities of the grant program, with the understanding that all invoices (financial indebtedness) must be paid through the Grantee's established method;
3. Responsibilities not listed on the attached Grant Agreement, but which the Sub-grantee agrees to carry out on behalf of the Grantee, are as follows:

_____

_____

_____

_____

_____

The Grantee also acknowledges, as part of this Agreement, that liability for the grant is wholly within its realm and the Sub-grantee hereby assumes responsibility to see that all terms listed herein are met, with the above exceptions. This Agreement shall be valid until successful project completion and grant close-out.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year indicated above.

_____ _____

Grantee Sub-Grantee

Attest: _____ Attest: _____

Attachment.

# INTERGOVERNMENTAL AGREEMENT

## SAMPLE AGREEMENT BETWEEN 2 (OR MORE) UNITS OF GOVERNMENT

This Agreement, made and entered into this _____ day of _____, 20____, by and between local jurisdictions of _____, _____, and _____.

Whereas, the proposed project construction or majority of beneficiaries lies within the legal jurisdiction of _____ the lead applicant shall be so named;

Whereas, all parties to this Agreement share in common the community development need of _____ and such need, when met, shall offer a higher quality of life for all citizens in each party's jurisdiction;

Whereas, all parties understand and comply with the CDBG application requirements as they relate to the lead applicant and as parties to a multijurisdictional project, including, but not limited to:

Now, therefore, the parties hereto agree as follows:

The lead applicant, _____, shall assume all grant responsibilities listed on the Grantee's Grant Agreement;

The lead applicant shall retain all financial responsibilities of the grant program, with the understanding that all invoices(financial, indebtedness) must be paid through the Grantee's established method;

Responsibilities that parties agree to carry out on behalf of the lead applicant are as follows:

| Jurisdiction: | Duties: |
|---|---|
| | |
| | |
| | |
| | |

The lead applicant also acknowledges, as part of this Agreement, that liability for the grant is wholly within its realm and the additional parties (jurisdictions) hereby assume responsibility for all terms listed herein, with any exceptions listed above. This Agreement shall be valid until successful completion and grant close-out.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as of the day and year indicated above.

| | |
|---|---|
| _____ | _____ |
| Lead applicant jurisdiction | Additional jurisdiction |
| _____ | _____ |
| Additional jurisdiction | Additional jurisdiction |

## PROFESSIONAL SERVICE CONTRACT CONTENT CHECKLIST

## (ENGINEERING/ADMINISTRATION/OTHER PROFESSIONAL SERVICES)

- ☐ Name of firm
- ☐ Date executed
- ☐ Signed original (by all parties)
- ☐ Termination Clause
- ☐ Lump Sum payment
- ☐ Scope of Service
- ☐ Executive Order 11246 (over $10,000)
- ☐ Title VI of the Civil Rights Act of 1964
- ☐ Section 109 of the Housing and Community Development Act of 1974
- ☐ Section 3 (applicable over $100,000)
- ☐ Section 503 of the Rehabilitation Act of 1973
- ☐ Affirmative Action Plan
- ☐ Section 504 of the Rehabilitation Act of 1973
- ☐ Age Discrimination Act of 1975
- ☐ Affidavit (Authorized Employees Section285.530, RSMo)
- ☐ Anti-Lobbying (applicable over $100,000)

## CONSTRUCTION CONTRACT CONTENT CHECKLIST

- ☐ Name of Firm
- ☐ Date Executed
- ☐ Lump Sum Bid
- ☐ Signed original (by all parties)
- ☐ Missouri Public Works Projects Contractor Check-Off List
- ☐ Contractor certifications on Equal Employment Opportunity
- ☐ Subcontractor certifications on Equal Employment Opportunity
- ☐ Certificate of Contemplated Minority, Women, and Section 3 Hires and Business Utilization
- ☐ Title VI of the Civil Rights Act of 1964
- ☐ Title VIII, Civil Rights Act of 1968
- ☐ Section 3 language (applicable over $100,000)
- ☐ Section 109, Housing and Community Development Act of 1974
- ☐ Section 503 of Rehabilitation Act of 1975
- ☐ Section 504 (found in Appendix I)
- ☐ Executive Order 11246 (applicable over $10,000)
- ☐ Executive Order 11063
- ☐ Affirmative Action Goals
- ☐ Anti-Lobbying (applicable over $100,000)
- ☐ Contract Work Hours and Safety Standards Act (applicable over $100,000)
- ☐ Davis Bacon Act and related acts (applicable over $2,000)
- ☐ Wage Rate Decision (Federal)
- ☐ Wage Rate Decision (State)
- ☐ Architectural barriers
- ☐ Clean Air and Water Acts (applicable over $100,000)
- ☐ Lead-Based Paint Poisoning Prevention Act
- ☐ Bid Bond (equal to 5% of bid)
- ☐ Performance bonds (applicable over $25,000, equal to 100% of contract price)

- ☐ Payment bonds (applicable over $50,000, equal to 100% of contract price)
- ☐ Federal Labor Standards Provisions (HUD Form 4010)
- ☐ CDBG General Conditions (or equivalent)
- ☐ HUD Supplemental Conditions
- ☐ Certificate of Owner's Attorney
- ☐ Affidavit (Authorized Employees Section285.530, RSMo)

# STANDARD FORM OF AGREEMENT BETWEEN OWNER & CONSULTANT

# FOR PROFESSIONAL ADMINISTRATIVE SERVICES

This is an agreement made as of _____20____, between _____ (owner) and _____ (consultant). The owner intends to perform a community development project, and the owner and consultant in consideration of their mutual covenants herein agree in respect of the performance of professional administrative services by consultant and the payment for those services by owner as set forth below. Consultant shall provide professional administrative services for owner in all phases of the project to which this agreement applies, serve as the owner's representative for the project as set forth below, and shall provide professional consultation of services hereunder.

**Section 1 – Basic Services for Consultant**

The consultant shall perform professional administrative services as hereinafter stated that include the administration of the owner's Community Development Block Grant Program,

Project # _____. The specific services of the consultant are indicated in Exhibit A, "Scope of Services."

**Section 2 – Owner's Responsibilities**

The owner shall:

2.1 Provide all criteria and full information as to owner's requirements for the project, and furnish copies of all documents related to the project.

2.2 Assist consultant by placing at his/her disposal all available information pertinent to the project, including previous reports and any other data relative to the project.

2.3 Give prompt written notice to consultant whenever owner observes or otherwise becomes aware of any development that affects the scope of timing of the consultant's services.

2.4 Bear all costs incidental to compliance with the requirements of Section 2.

**Section 3 – Period of Service**

3.1 The provisions of this Section 3 and the rates of compensation for the consultant's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion.

3.2 The consultant agrees to complete the project by the ending date identified in the owner's "Grant Agreement" with the Missouri Department of Economic Development for the Community Development Block Grant Program from which part of the project has been financed.

3.3 If the owner has requested significant modifications or changes in the extent of the project, the time of performance of consultant's services and his/her rates of compensation shall be adjusted appropriately.

**Section 4 – Payments to Consultant**

4.1 The maximum amount the owner shall pay the consultant for performance of this agreement shall not exceed $_____. Compensation will be based on a time, expenses, materials, overhead, and fixed fee (if consultant is a for-profit entity) basis documented in a manner acceptable by the owner.

4.2 Consultant may submit a statement for 25% of services and expenses incurred when removal of grant conditions has been issued; 50% upon approval of first contractor's payroll; 75% upon 50% of construction draw; 90% prior to final paperwork and 100% after completion of all final paperwork.

**Section 5 – General Considerations**

5.1 The obligation to provide further services under this Agreement may be terminated by either party upon ten (10) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

5.2 The consultant shall comply with all applicable rules, regulations, laws, and requirements in relation to the Community Development Block Grant Program as distributed by the Missouri Department of Economic Development.

5.3 The owner and consultant each binds himself/herself and his/her partners, successors, executors, administrators, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations to this agreement.

5.4 Neither owner nor consultant shall assign, sublet, or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Agreement without the written consent of the other, except as stated in paragraph 5.3 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to or assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent consultant from employing such independent consultants, associates, and subcontractors as he/she may deem appropriate to assist him/her in the performance of service hereunder.

**Section 6 – Special Provisions and Exhibits**

6.1 The following exhibits are attached to and made a part of this Agreement.

6.1.1 Exhibit A, "Scope of Services," consisting of _____ pages.

6.1.2 Part II, "Terms and Conditions," consisting of _____ pages.

6.2 This Agreement (consisting of pages 1 to _____, inclusive), together with the exhibits identified above, constitute the entire agreement between the owner and consultant and supersede all prior written or oral understandings. This agreement and said exhibits may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

In witness whereof, the parties hereto have made and executed this Agreement as of the day and year first above written.

| Owner: | Consultant: |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

# PROFESSIONAL SERVICES AGREEMENT (CONTINUED)

## EXHIBIT A – SCOPE OF SERVICE

**Complete this page in detail**

The consultant shall complete, in a professional and timely manner, the following services relative to the owner's Community Development Block Grant Program. Such actions shall be performed in a manner prescribed by the Missouri Department of Economic Development.

**(Note: Delete inapplicable phrases and initial.)**

1. Financial Management (accounting, file maintenance, cost documentation, Part 85/A-87 conformance, RFF preparation and related matters)
2. Environmental Review – including publications and related costs; Assessment; SHPO; Completion of whole Environmental Review Record; Designation as Environmental Review Officer
3. Labor Standards Compliance – including wage rates requests for bidders; review of weekly payrolls; wage restitution, if necessary; Employee interviews
4. Civil Rights Compliance – including language in contracts; Fair housing activities; Publication costs; material costs; Analysis of Impediments activities
5. Public Participation Requirements (owner to pay for public notices)
6. Preparation of contract documents, except for engineering specifications
7. Administer procedures required by the "Uniform Act" in relation to the acquisition of property, including specific tasks related to easements
8. Completion of close-out forms and required performance reports

# CONTRACT FOR PROFESSIONAL SERVICES TERMS AND CONDITIONS

1. Termination of Contract for Cause. If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner his obligations under this Contract, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant under this Contract shall, at the option of the Owner, become its property and the Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

   Notwithstanding the above, the Consultant shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the Contract by the Consultant, and the Owner may withhold any payments to the Consultant for the purpose of set-off until such time as the exact amount of damages due the Owner from the Consultant is determined.

2. Termination for Convenience of the Owner. The Owner may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Consultant. If the Contract is terminated by the Owner as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Consultant, Paragraph 1 hereof relative to termination shall apply.

3. Changes. The Owner may, from time to time, request changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between the Owner and the Consultant, shall be incorporated in written amendments to this Contract.

4. Personnel.

   a. The Consultant represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner.

   b. All of the services required hereunder will be performed by the Consultant or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

   c. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the Owner. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

5. Assignability. The Consultant shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the Owner thereto. Provided, however, that the claims for money by the Consultant from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Owner.

6. Reports and Information. The Consultant, at such times and in such forms as the Owner may require, shall furnish the Owner such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

7. Records and Audits. The Consultant shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the Owner to assure proper accounting for all project funds, both Federal and non-Federal shares. These records will be made available for audit purposes to the Owner or any authorized representative, and will be retained for five years after the expiration of this Contract unless permission to destroy them is granted by the Owner.

8. Findings Confidential. All of the reports, information, date, etc. prepared or assembled by the Consultant under this Contract are confidential and the Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the Owner.

9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Consultant.

10. Compliance with Local Laws. The Consultant shall comply with all applicable laws, ordinances, and codes of the State and local governments, and the Consultant shall save the Owner harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.

11. Equal Employment Opportunity. During the performance of this Contract, the Consultant agrees as follows:

    a. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Owner setting forth the provisions of this non-discrimination clause.

    b. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.

    c. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

    d. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

    e. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Owner and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

    f. In the event of the Consultant's noncompliance with the non-discrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive

Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Consultant will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204, Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Owner, the Consultant may request the United States Government to enter into such litigation to protect the interests of the United States.

12. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

13. Section 109(a) of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

14. Section 503 of the Rehabilitation Act of 1973, as amended, provides for the nondiscrimination in contractor employment. All recipients of Federal funds must certify to the following through all contracts issued.

15. Affirmative Action for Handicapped Workers.

    a. The consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The consultant agrees to take affirmative action to employ, advance in employment, and to otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

    b. The consultant agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

    c. In the event of the consultant's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

    d. The consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the consultant's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of the applicants and employees.

    e. The consultant will notify each labor union or representative of workers, if applicable, with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by terms of Section 503 of the Rehabilitation Act of 1973 and is committed

to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f. The consultant will include the provisions of this clause in every subcontract, if applicable, or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The consultant will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

16. Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his handicap in benefiting from any program or activity receiving Federal financial assistance. All recipients must certify to compliance with all provisions of this Section.

17. Age Discrimination Act of 1975. No person in the United States, on the basis of age, shall be excluded from participation in, be denied benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

18. Authorized Employees. Consultant acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Consultant therefore covenants that is not knowingly in violation of subsection 1 or Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.

19. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Consultant shall take appropriate steps to assure compliance.

20. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Consultant shall take appropriate steps to assure compliance.

21. Interest of Consultant and Employees. The Consultant covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

STATE OF MISSOURI )

) ss

COUNTY OF _____)

# AFFIDAVIT

(as required by Section 285.530, Revised Statues of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE: Any person performing work or service of any kind for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM: Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY: A person acts knowingly or with knowledge,

a. with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or
b. with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN: An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared

_____, who, being duly sworn, states on his oath or affirmation as follows:

1. My name is _____ and I am currently the President of _____ (hereinafter "Contractor"), whose business address is _____ "and I am authorized to make this Affidavit.
2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.
3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and _____
4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.
5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant sayeth not.

_____

Affiant

Subscribed and sworn to before me this _____day of _____, 20__.

Commission #

# SAMPLE CONTRACT FOR ENGINEERING AND TECHNICAL SERVICES

This Agreement entered into this _____ day of _____, 20___ by and between _____ located at _____, hereinafter referred to as "Engineer" and the (City/County) of _____, Missouri, hereinafter referred to as "City/County" for furnishing engineering and technical services.

The services will be for the design of _____

_____
_____
_____
_____.

1. **SCOPE OF SERVICES**

   In connection with the above, Engineer will perform the following services:

   A. Topographic and Design Surveys
      i. Engineer will obtain the topographic and design surveys necessary for the preparation of contract plans for the proposed improvements. Such surveys will include, but not necessarily be limited to:
         a. _____
            _____
            _____
            _____.
         b. _____
            _____
            _____
            _____.
         c. _____
            _____
            _____
            _____.
         d. _____
            _____
            _____
            _____.

   B. Geotechnical Services
      Engineer will obtain all necessary subsurface investigations, tests, reports, and perform related surveys.

   C. Contract Plans and Cost Estimate
      i. Engineer will prepare complete and detailed final contract plans for the proposed improvements as previously described. The plans will include, but not be limited to, the following:
         a. _____
            _____
            _____
            _____.
         b. _____
            _____
            _____
            _____.

c. _____
_____
_____
_____.

ii. Engineer will assist the City/County in obtaining the approval of final agreements with the utility companies and other such public agencies as may be necessary.
iii. Engineer will prepare a complete set of front-end documents and technical specifications for the construction package.
iv. Engineer will provide quantities and a detailed estimate of cost for the work.
v. Engineer will prepare the notice to contractors for bidding purposes, notify Dodge Reports of the progress of the project, send written notices to a number of contractors qualified to bid on the work, and send written notices to various minority organizations and minority contractors.

D. Easement Deeds
Engineer will prepare easement deeds, ready for signature, for all properties from which easements will be required for construction.

E. Construction Services
i. Engineer will assist the City/County in advertising for bids, attend the bid opening, prepare bid tabulations, and assist in analyzing bids and making recommendation with respect to the selection of a qualified contractor for the construction of the work.
ii. Engineer will prepare and forward _____ signature sets of Contract Documents to the contractor selected by City/County.
iii. Engineer will be available for general consultation and interpretation of the plans and specifications during construction.
iv. Engineer will visit the site a maximum of _____ times and observe the progress of construction at intervals during construction of the project. Such observation is not to be construed as supervision of construction, but is a review of the work for general conformance with contract plans.
v. Engineer will review all shop and working drawings.
vi. Engineer will participate in the final inspection (included in the visits mentioned in E-iv).

2. **TO BE PROVIDED BY THE CITY/COUNTY**
A. All available pertinent information that it may have in its possession or to which it may have access.
B. A representative to whom Engineer will report and from whom Engineer shall receive instruction and authorization.
C. Right of access to all properties as required during the execution of the work.
D. All necessary resident engineering services.
E. Services of an independent testing laboratory to perform all materials testing necessary for control of the project during the construction phase.
F. Title work necessary for easement or property acquisition.

3. **TO BE PROVIDED BY ENGINEER**
A. The services of all professional and technical personnel required for the performance of the services described under Scope of Work.
B. Up to _____ copies of the construction plans and specifications for the project.

4. **TIME OF PERFORMANCE**
A. The services of Engineer are to commence upon the signing of the contract, and the final contract plans and documents will be available, ready for advertising for bids, within _____ days after receipt of notice to proceed.
B. Construction services shall be provided at such time as may be required.

5. **COMPENSATION**
   A. The City/County will compensate Engineer for the work specified above as follows:
      i. For all work and services described in the Scope of Services, except B, Geotechnical Services, the lump sum fee shall be _____ ($00,000.00).
      ii. For all work and services included in B, Geotechnical Services, the fee shall be the direct cost of the subcontract services furnished by a geotechnical consultant. The scope and cost of said services would be reviewed and approved by the City/County prior to any authorization to proceed.
      iii. This cost shall constitute complete compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Work.

6. **METHOD OF PAYMENT**

   Payment to Engineer for services under Scope of Work will be made monthly based on the percentage of work completed during the preceding month and will, in every case, be supported by a suitable invoice.

7. **SPECIAL CONDITIONS**

   This contract is subject to and incorporates the provisions attached hereto as Exhibit A, the Regulations of the Department of Housing and Urban Development relative to Contracts for Community Development, Part II, General Terms and Conditions.

8. **ACCEPTANCE**

   If this contract meets with your approval, please indicate your acceptance by signing this proposal and returning one signed copy.

Submitted by:

| | |
|---|---|
| **Engineer Name:** | **Attest:** |
| _____ | _____ |
| *Name and Title* | *Name and Title* |
| **City/County:** | **Attest:** |
| _____ | _____ |
| *Name and Title* | *Name and Title* |

# CONTRACT FOR ENGINEERING SERVICES TERMS AND CONDITIONS

1. Termination of Contract for Cause. If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner his obligations under this Contract, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant under this Contract shall, at the option of the Owner, become its property and the Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

   Notwithstanding the above, the Consultant shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the Contract by the Consultant, and the Owner may withhold any payments to the Consultant for the purpose of set-off until such time as the exact amount of damages due the Owner from the Consultant is determined.

2. Termination for Convenience of the Owner. The Owner may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Consultant. If the Contract is terminated by the Owner as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Consultant, Paragraph 1 hereof relative to termination shall apply.

3. Changes. The Owner may, from time to time, request changes in the scope of the services of the Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between the Owner and the Consultant, shall be incorporated in written amendments to this Contract.

4. Personnel.

   a. The Consultant represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Owner.

   b. All of the services required hereunder will be performed by the Consultant or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.

   c. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the Owner. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

5. Assignability. The Consultant shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the Owner thereto. Provided, however, that the claims for money by the Consultant from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Owner.

6. Reports and Information. The Consultant, at such times and in such forms as the Owner may require, shall furnish the Owner such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

7. Records and Audits. The Consultant shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the Owner to assure proper accounting for all project funds, both Federal and non-Federal shares. These records will be made available for audit purposes to the Owner or any authorized representative, and will be retained for five years after the expiration of this Contract unless permission to destroy them is granted by the Owner.

8. Findings Confidential. All of the reports, information, date, etc. prepared or assembled by the Consultant under this Contract are confidential and the Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the Owner.

9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Consultant.

10. Compliance with Local Laws. The Consultant shall comply with all applicable laws, ordinances, and codes of the State and local governments, and the Consultant shall save the Owner harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.

11. Equal Employment Opportunity. During the performance of this Contract, the Consultant agrees as follows:

    a. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Owner setting forth the provisions of this non-discrimination clause.

    b. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.

    c. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

    d. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

    e. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Owner and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

    f. In the event of the Consultant's noncompliance with the non-discrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive

Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Consultant will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204, Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Owner, the Consultant may request the United States Government to enter into such litigation to protect the interests of the United States.

12. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

13. Section 109(a) of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

14. Section 503 of the Rehabilitation Act of 1973, as amended, provides for the nondiscrimination in contractor employment. All recipients of Federal funds must certify to the following through all contracts issued.

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    a. The consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The consultant agrees to take affirmative action to employ, advance in employment, and to otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

    b. The consultant agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

    c. In the event of the consultant's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

    d. The consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the consultant's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of the applicants and employees.

    e. The consultant will notify each labor union or representative of workers, if applicable, with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by terms of Section 503 of the Rehabilitation Act of 1973 and is committed

to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f. The consultant will include the provisions of this clause in every subcontract, if applicable, or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The consultant will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

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18. Authorized Employees. Consultant acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Consultant therefore covenants that is not knowingly in violation of subsection 1 or Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.

19. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Consultant shall take appropriate steps to assure compliance.

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21. Interest of Consultant and Employees. The Consultant covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

STATE OF MISSOURI )

) ss

COUNTY OF _____)

# AFFIDAVIT

(as required by Section 285.530, Revised Statues of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE: Any person performing work or service of any kind for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM: Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY: A person acts knowingly or with knowledge,

a. with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or
b. with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN: An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared

_____, who, being duly sworn, states on his oath or affirmation as follows:

1. My name is _____ and I am currently the President of _____ (hereinafter "Contractor"), whose business address is _____ "and I am authorized to make this Affidavit.
2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.
3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and _____
4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.
5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant sayeth not.

_____

Affiant

Subscribed and sworn to before me this _____day of _____, 20__.

Commission #

# BID PACKET FOR CONSTRUCTION CONTRACTS FORMS

This does not represent all of the required contents of the bid packet. It only provides sample forms. Example: the wage determinations, plans and specifications, maps, etc. are not included here, but must be a part of the total bid packet.

- Advertisement for Bids
- Information for Bidders
- CDBG Bonding and Insurance Requirements
- Bid Bond
- Bid for Lump Sum Contracts
- Bidder Qualifications
- Certification of Bidder Regarding Equal Employment Opportunity
- Certificate of Contemplated Minority, Women, and Section 3 Hires and Business Utilization
- Certification by Proposed Subcontractor Regarding Equal Employment Opportunity
- Anti-Lobbying Certification
- Performance Bond
- Payment Bond
- Contract
- Certificate of Owner's Attorney
- Engineer/Consultant's Certification for Acceptance and Final Payment
- CDBG General Conditions
- Affidavit Section 285.530, Revised Statues of Missouri
- Federal Labor Standards Provisions (HUD-4010)
- HUD Supplemental Conditions
- Appendix 1, Summary of Civil Rights Laws, Executive Orders, and Regulations

**Samples of all of the forms listed above follow and should be included as part of the bid packet.**

# ADVERTISEMENT FOR BIDS

Project No. _____

_____

(Owner)

Separate sealed bids for _____ will be received by _____ at the office of _____ until _____ o'clock (A.M. _____ P.M._____ S.T. _____ DST) _____, 20 _____, and then at said office publicly opened and read aloud.

The Information for Bidders, Form of Bid, Form of Contract, Plans, Specifications, and Forms of Bid Bond, Performance and Payment Bond, and other contract documents may be examined at the following:

_____

_____

_____

_____

_____

Copies may be obtained at the office of _____ located at _____ upon payment of $_____ for each set. Any unsuccessful bidder, upon returning such set promptly and in good condition, will be refunded his payment, and any non-bidder upon so returning such a set will be refunded $ _____.

The owner reserves the right to waive any informalities or to reject any or all bids.

Each bidder must deposit with his bid security in the amount, form and subject to the conditions provided in the Information for Bidders.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and Davis Bacon and/or State Prevailing wage rates to be paid under the contract, Segregated Facility, Section 109, and E.O. 11246. MBE, WBE and Section 3-DBE bidders are encouraged to bid.

No bidder may withdraw his bid within ___ days after the actual date of the opening thereof.

_____

(Date)

"EQUAL OPPORTUNITY EMPLOYER"

# INFORMATION FOR BIDDERS

1. Receipt and Opening of Bids

   The _____ (herein called the "Owner"), invites bids on the form attached hereto, all blanks of which must be appropriately filled in. Bids will be received by the Owner at the office of _____ until _____ o'clock a.m./p.m., _____ ST/SDT, _____ 20 _____, and then at said office publicly opened and read aloud. The envelopes containing the bids must be sealed, addressed to _____ at _____ and designated as bid for _____.

   The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within ___ days after the actual date of the opening thereof. Should there be reasons why the Contract cannot be awarded within the specified period; the time may be extended by mutual agreement between the Owner and the Bidder.

2. Preparation of Bid: Each bid must be submitted on the prescribed form and accompanied by Certification by Bidder Regarding Equal Employment Opportunity and Affidavits regarding E-Verify. All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures, and the foregoing Certifications must be fully completed and executed when submitted.

3. Subcontracts: The bidder is specifically advised that any person, or other party, to whom it is proposed to award a subcontract under this contract:

   a. Must be acceptable to the owner after verification by the HUD Area Office of the current eligibility status; and

   b. Must submit Certification by Proposed Subcontractor Regarding Equal Employment Opportunity and Affidavits regarding E-Verify. Approval of the proposed subcontract award cannot be given by the Owner unless and until the proposed subcontractor has submitted the Certifications and/or other evidence showing that it has fully complied with any reporting requirements to which it is or was subject. Although the bidder is not required to attach such Certifications by proposed subcontractors to his bid, the bidder is here advised of this requirement so that appropriate action can be taken to prevent subsequent delay in subcontract awards.

4. Telegraphic Modification: Any bidder may modify his bid by telegraphic communication at any time prior to the scheduled closing time for receipt of bids, provided such telegraphic communication is received by the Owner prior to the closing time, and, provided further, the Owner is satisfied that a written confirmation of the telegraphic modification over the signature of the bidder was mailed prior to the closing time. The telegraphic communication should not reveal the bid price, but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not received within two days from the closing time, no consideration will be given to the telegraphic modification.

5. Qualifications of Bidder: The Owner may make such investigations as he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the owner that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids will not be accepted.

6. Bid Security: Each bid must be accompanied by a bid bond payable to the Owner for five percent of the total amount of the bid. As soon as the bid prices have been compared, the Owner will return all of the bonds except the three lowest responsible bidders. When the agreement is executed the bonds of the two remaining unsuccessful bidders will be returned. The bid bond of the successful bidder will be retained until the payment bond and performance bond have been executed and approved, after which it will be returned. A certified check on a solvent bank may be used in lieu of a bid bond.

7. Liquidated Damages for Failure to Enter into Contract: The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 15 days after he received notice of the acceptance of his bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his bid.

8. Time of Completion and Liquidated Damages: Bidder must agree to commence work on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete the project within _____ consecutive calendar days thereafter. Bidder must agree also to pay as liquidated damages, the sum of $ _____ for each consecutive calendar day thereafter as hereinafter provided in the General Conditions.

9. Conditions of Work: Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible the contractor, in carrying out the work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

10. Addenda and Interpretations: No interpretation of the meaning to the plans, specifications, or other pre-bid documents will be made to any bidder orally.

    Every request for such interpretation should be in writing addressed to _____ at _____ and to be given consideration must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested to all prospective bidders (at the respective addresses furnished for such purposes), not later than three days prior to the data fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so insured shall become part of the contract documents.

11. Security for Faithful Performance: Simultaneously with his delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the Owner.

12. Power of Attorney: Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

13. Notice of Special Conditions: Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

    a. Inspection and testing of materials

    b. Insurance requirements

    c. Wage rates

    d. Stated allowances

14. Laws and Regulations: The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

15. Method of Award - Lowest Qualified Bidder: If at the time this contract is to be awarded, the lowest base bid submitted by a responsible bidder does not exceed the amount of funds then estimated by the Owner as available to finance the contract; the contract will be awarded on the base bid only. If such bid exceeds such amount, the Owner may reject all bids or may award the contract on the base bid combined with such deductible alternates applied in the numerical order in which they are listed in the Form of Bid, as produces a net amount which is within the available funds. All alternates, both additive and deductive, must be taken in the numerical order in which they are listed in the Form of Bid.

16. Obligation of Bidder: At the time of the opening of bids, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument, or document shall in no way relieve any bidder from any obligation in respect or his bid.

    Bidders are informed that pursuant to Section 285.530, RSMo, as a condition of the award of any contract in excess of five thousand dollars ($5,000), the successful bidder shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation if a federal work authorization program with respect to the employees working in connection to the contracted services. Successful bidders shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection to the contracted services.

17. Safety Standards and Accident Prevention: With respect to all work performed under this contract, the contractor shall:

    a. Comply with the safety standards provisions of applicable laws, building and construction codes, and the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act of 1970 (Public Law 91-596), and the requirements of Title 29 of the Code of Federal Regulations, Section 1518 as published in the "Federal Register", Volume 36, No. 75, Saturday, April 17, 1971.

    b. Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.

    c. Maintain at his office or other well-known place at the job site, all articles necessary for giving first aid to the injured, and shall make arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site. In no case shall employees be permitted to work at a job site before the employer has made a standing arrangement for removal of injured persons to a hospital or a doctor's care.

    d. Bidders are informed that the Project is subject to the requirements of Section 292.675, RSMo, which requires all contractors or subcontractors doing work on the Project to provide, and require its on-site employees to complete, a ten (10) hour) course in construction safety and health approved by the Occupational Safety and Health Administration (“OSHA”) or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. The training must be completed within sixty (60) days of the date of work on the Project commences. On-site employees found on the worksite without documentation of the required training shall have twenty (20) days to produce such documentation.

# COMMUNITY DEVELOPMENT BLOCK GRANT REGULATIONS

# BONDING AND INSURANCE REQUIREMENTS

A state or local unit of government receiving a grant from the Federal government, which requires contracting for construction or facility improvement, shall follow its own requirements relating to bid guarantees, and performance bonds, except for contracts or subcontracts exceeding $25,000 and payment bonds for contracts exceeding $50,000. For contracts or subcontracts exceeding $25,000, the Federal agency may accept the bonding policy and requirements of the grantee provided the Federal agency has made a determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

1. A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 percent of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor for 100 percent of the contract price, **IF CONTRACT PRICE EXCEEDS $50,000**. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

# BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto _____ as owner in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns, this _____ day of _____, 20 _____.

The condition of the above obligation is such that whereas the Principal has submitted to _____ a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the _____

_____
_____
_____.

NOW, THEREFORE,

1. If said Bid shall be rejected, or in the alternate,
2. If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by the extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____(L.S.)

Principal

SEAL

_____

By: _____

# BID FOR LUMP SUM CONTRACTS

Place _____

Date _____

Project No. _____

Proposal of _____ (hereinafter called "Bidder") * a corporation, organized and existing under the laws of the State of _____, * a partnership, or an individual doing business as _____.

To the _____ (hereinafter called "Owner")

Gentlemen:

The Bidder, in compliance with your invitation for bids for the construction of a _____ having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in written "Notice of Proceed" of the Owner and to fully complete the project within _____ consecutive calendar days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of $_____ for each consecutive calendar day thereafter as hereinafter provided in Paragraph 15 of the General Conditions.

Bidder acknowledges receipt of the following addendum:

_____
_____
_____

* Insert corporation, partnership, or individual as applicable.

BASE PROPOSAL: Bidder agrees to perform all of the _____

_____ work described in the specifications and shown on the plans for the sum of _____

($_____) (Amount shall be in both words and figures. In case of discrepancy, the amount shown in words will govern).

Alternates, both additive and deductive, must be taken in the numerical order in which they are listed.

ALTERNATE PROPOSALS:

Alternate No. 1:_____

Deduct the sum of _____ ($ _____ )

Alternate No. 2:_____

Deduct the sum of _____ ($ _____ )

Alternate No. 3:_____

Deduct the sum of _____ ($ _____ )

Alternate No. 4:_____

Deduct the sum of _____ ($ _____ )

UNIT PRICES:

Bidder agrees to perform all the _____ work described in the specifications and shown on the plans, for the following unit price:

| Item No. | Est. Qty. | Description | Unit Price (Each) | Total |
|---|---|---|---|---|
| 1 | _____ | _____ | _____ | _____ |
| | | | Dollars & Cents | Dollars & Cents |
| | | | ($_____) | ($_____) |
| 2 | _____ | _____ | _____ | _____ |
| | | | Dollars & Cents | Dollars & Cents |
| | | | ($_____) | ($_____) |
| 3 | _____ | _____ | _____ | _____ |
| | | | Dollars & Cents | Dollars & Cents |

(Amounts are to be shown in both words and figures. In case of discrepancy, the amount shown in words will govern).

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Changes shall be processed in accordance with Paragraph 13 of the General Conditions.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of ____ calendar days after the scheduled closing time for receiving bids.

Upon receipt of written notice of the acceptance of this bid, Bidder will execute the formal contract attached within 15 days and deliver a Surety Bond or Bonds as required by Paragraph 22 of the General Conditions. The bid security attached in the sum of _____ ($_____ ) is to become, in the event the contract and bond are not executed within the time above set forth, as liquidates damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

(SEAL – if bid is by a corporation) By: _____

Signature

_____

Title

_____

Business Address and ZIP Code

# BIDDER QUALIFICATIONS

**Firm Name**: _____

(Company Name)

_____

(Address) (City, State, Zip Code)

_____

(Phone Number) (Fax Number) (E-mail)

Date: _____

**Construction Capabilities**: (Check all that apply)

- ☐ General Contracting ☐ Electrical ☐ Plumbing
- ☐ HVAC ☐ Demolition ☐ Earthmoving
- ☐ Asbestos Abatement ☐ Other: _____

**For Corporations Only**:

Federal ID Number: _____

Name of State(s) in which incorporated: _____

Date(s) of incorporation: _____

If not incorporated in Missouri:

1. Attach Certificate of Authority to do Business in Missouri
2. Certificate Number: _____ Date: _____

_____ _____

(President's Name) (Vice-President's Name)

_____ _____

(Secretary's Name) (Treasurer's Name)

**For Partnerships Only**: Date of Organization: _____

Type of Partnership: ☐ General ☐ Limited ☐ Association

Names and Addresses of all partners: (use additional sheet if necessary)

1. _____

(Name) (Address) (City, State, Zip Code)

2. _____

(Name) (Address) (City, State, Zip Code)

**General Information**:

Federal ID Number: _____ or SSN: _____

Percent of work done by Contractor: _____ Number of Permanent Employees: _____

Number of years in business:_____

Geographical limits of operation: _____

If you have done business under a different name, please give name and location: _____

_____

Has firm ever failed to complete a project or defaulted on a contract? If so, state where and why:

_____

_____

**Date**: Dated this _____ day of _____, 20_____.

**Signatures**:

☐ Individual ☐ Partnership ☐ Joint Venture ☐ Corporation

Business Name: _____

Address: _____

_____

Telephone: _____ Fax Number: _____

Federal ID Number: _____ Social Security Number: _____

Incorporated under the laws of the State of: _____

(If a corporation organized in a state other than Missouri, attach certificate of Authority to do business in the State of Missouri.)

_____ _____

(Bidder's Signature) (Corporate Secretary's Signature and Seal)

_____

(Typed or Printed Name of Signor) SEAL

_____

(Partner/Joint Venture Signature)

_____

(Typed or Printed Name of Signor)

# CERTIFICATION OF BIDDER

# REGARDING EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause, and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

NAME AND ADDRESS OF BIDDER (Include ZIP Code):

_____

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.
   ☐ YES ☐ NO
2. Compliance reports were required to be filed in connection with such contract or subcontract.
   ☐ YES ☐ NO
3. Bidder has filed all compliance reports due under applicable instructions.
   ☐ YES ☐ NO
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?
   ☐ YES ☐ NO

_____

NAME AND TITLE OF SIGNER (Please type):

_____

_____

SIGNATURE DATE

# CERTIFICATE OF CONTEMPLATED MINORITY, WOMEN, AND SECTION 3 HIRES AND BUSINESS UTILIZATION

The undersigned makes this affidavit with full knowledge that its contests will be used in the expenditure of funds provided by the United States Government. Under penalty of perjury, he/she herby states:

**Section 3 Status**

I am the (owner, partner, officer, representative, or agent) of _____, the Bidder that has submitted the attached Bid; and whose business concern is:

- ☐ 51 percent or more owned by Section 3 residents; or
- ☐ Has permanent, full-time employees, at least 30 percent of whom are currently Section 3 residents, or were Section 3 residents within three (3) years of the date of first employment with the business concern; or
- ☐ None of the above; no Section 3 preference claimed.

**Subcontractors**

- ☐ I will be utilizing subcontractors or suppliers.
- ☐ I will not be utilizing subcontractors or suppliers.

If subcontractors or supplies will be utilized, please list all Minority, Women, and Section 3 firms or suppliers that were contacted or that will be utilized for this activity. Use additional sheets if necessary.

Subcontractor _____ ☐ MBE ☐ WBE ☐ Section 3

Address _____ Bid Amount _____

Trade or Supplier _____

Bid Accepted: Yes ☐ No ☐ If No, explain: _____

Subcontractor _____ ☐ MBE ☐ WBE ☐ Section 3

Address _____ Bid Amount _____

Trade or Supplier _____

Bid Accepted: Yes ☐ No ☐ If No, explain: _____

Subcontractor _____ ☐ MBE ☐ WBE ☐ Section 3

Address _____ Bid Amount _____

Trade or Supplier _____

Bid Accepted: Yes ☐ No ☐ If No, explain: _____

Subcontractor _____ ☐ MBE ☐ WBE ☐ Section 3

Address _____ Bid Amount _____

Trade or Supplier _____

Bid Accepted: Yes ☐ No ☐ If No, explain: _____

Subcontractor _____ ☐ MBE ☐ WBE ☐ Section 3

Address _____ Bid Amount _____

Trade or Supplier _____

Bid Accepted: Yes ☐ No ☐ If No, explain: _____

**Section 3: Hiring of Additional Workers**

- ☐ I will be hiring additional workers to complete this activity.
- ☐ I will not be hiring additional workers to complete this activity.

Listed below are the Section 3 employment opportunities which are herein incorporated and made part of the contract's bid documentation. If new positions will be filled, please complete:

| Occupation | Needed | To Be Hired | Apprentices* | Trainees* |
|---|---|---|---|---|
| Carpenters | | | | |
| Electricians | | | | |
| Power Equipment Operations | | | | |
| Ironworkers | | | | |
| Laborers | | | | |
| Plumbers/Pipefitters | | | | |
| Masons | | | | |
| Truck Drivers | | | | |
| Office/Clerical | | | | |
| Other: | | | | |
| Other: | | | | |

*Attach copies of program and apprentice certifications by the Missouri or U.S. Bureaus of Apprenticeship and Training.

IF NEW POSITIONS WERE FILLED, PLEASE COMPLETE AT END OF CONSTRUCTION:

| Occupation | Needed | To Be Hired | Apprentices* | Trainees* |
|---|---|---|---|---|
| Carpenters | | | | |
| Electricians | | | | |
| Power Equipment Operations | | | | |
| Ironworkers | | | | |
| Laborers | | | | |
| Plumbers/Pipefitters | | | | |
| Masons | | | | |
| Truck Drivers | | | | |
| Office/Clerical | | | | |
| Other: | | | | |
| Other: | | | | |

**Certification**

In Witness Thereof, Contractor has executed his certificate this _____ day of _____,

20 ____.

Contractor Name _____

Federal ID _____ DUNS _____

Signature of Authorized Agent_____

Printed Name _____ Date_____

# CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT OPPORTUNITY

NAME OF PRIME CONTRACTOR PROJECT NUMBER

## INSTRUCTIONS

The certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the subcontractor has not filed a compliance report due under applicable instructions, such subcontractor shall be required to submit a compliance report before the owner approves the subcontract or permits work to begin under the subcontract.

## SUBCONTRACTOR'S CERTIFICATION

NAME AND ADDRESS OF SUBCONTRACTOR (Include ZIP Code):

_____

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.
   ☐ YES ☐ NO
2. Compliance reports were required to be filed in connection with such contract or subcontract.
   ☐ YES ☐ NO
3. Bidder has filed all compliance reports due under applicable instructions.
   ☐ YES ☐ NO
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?
   ☐ YES ☐ NO

_____

NAME AND TITLE OF SIGNER (Please type):

_____

_____

SIGNATURE

DATE

# ANTI-LOBBYING CERTIFICATION

Section 319 of Public Law 101-121 prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, cooperative agreement, or loan.

The Federal Register (page 52070, dated December 20, 1989) specifically forbids the Department of Housing and Urban Development (HUD) from awarding contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying.

This new requirement has since been narrowed to signed certifications for all awards of Federal funds over $100,000. This begins with the State's grant and applies to all grantees, contractors, subcontractors, suppliers, etc. for all contracts, grants, cooperative agreements, or loans over $100,000.

Failure of the grantee to obtain this certification from all awards of $100,000 or more will result in a program finding and suspended disbursement of Federal funds for the applicable activity or contract.

A copy of this certification can be found on the following page.

# CERTIFICATION REGARDING GOVERNMENT-WIDE RESTRICTION ON LOBBYING

(For contracts, grants, cooperative agreements, and loans over $100,000)

The undersigned certifies, to the best of his knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards (at all tiers, including contracts under grants, loans, and cooperative agreements, subcontracts, and subgrants) over $100,000, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction impost by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Name of Entity (city, county, contractor, etc.)

_____

Name of Certifying Official (Mayor, Presiding Commissioner, President, etc.)

_____ _____

Signature of Certifying Official Date

# PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

_____

(Name of Contractor)

_____

(Address of Contractor)

a _____, hereinafter called Principal, and

(Corporation, Partnership or Individual)

_____

(Name of Surety)

_____

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

_____

(Name of Owner)

_____

(Address of Owner)

hereinafter called OWNER in the total aggregate penal sum of _____

Dollars ($_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain CONTRACT with the OWNER, dated the _____day of _____ 20 _____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said CONTRACT during the original term thereof, and any extensions thereof which may be granted by the OWNER with or without notice to the SURETY and during the one year guaranty period and if the PRINCIPAL shall satisfy all claims and demands incurred under such CONTRACT, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said SURETY, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the CONTRACT or to WORK to be performed thereunder or the SPECIFICATIONS accompanying same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the CONTRACT or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the CONTRACT not increasing the CONTRACT price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full

and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND, and whether referring to this BOND, the CONTRACT or the Loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER that no final settlement between the OWNER and the PRINCIPAL shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The OWNER are the only beneficiaries hereunder.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which
(Number)

shall be deemed an original, this the _____ day of _____.

ATTEST:

_____
Principal

_____
(Principal) Secretary

SEAL

By _____

_____

_____ _____
(Witness as to Principal) (Address)

_____
(Address)

_____ _____
Surety

ATTEST:

_____ BY _____
Witness to Surety Attorney-in-Fact

_____ _____
(Address) (Address)

NOTE: Date of BOND must not be prior to date of CONTRACT.

If CONTRACTOR is partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

# PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

_____

(Name of Contractor)

_____

(Address of Contractor)

a _____, hereinafter called Principal, and

(Corporation, Partnership or Individual)

_____

(Name of Surety)

_____

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

_____

(Name of Owner)

_____

(Address of Owner)

hereinafter called OWNER, and unto all persons, firms and corporations who or which may furnish labor, or who furnish materials to perform as described under the CONTRACT and to their successors and assigns in the total aggregate penal sum of _____

Dollars ($_____)in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain CONTRACT with the OWNER, dated the _____day of _____ 20 _____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such CONTRACT, and any authorized extensions or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK and for all labor cost incurred in such WORK including that by a SUBCONTRACTOR, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the SUBCONTRACTORS, and persons, firms, and corporations having s direct contract with the PRINCIPAL or its SUBCONTRACTORS.

PROVIDED, FURTHER, that the said SURETY for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the CONTRACT or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this CONTRACT or to the WORK or to the SPECIFICAITONS.

PROVIDE, FURTHER, that no suit or action shall be commenced hereunder by any claimant: (a) Unless claimant, other than one having a direct CONTRACT with the PRINCIPAL (or with the GOVERNMENT in the event the GOVERNMENT is performing the obligations of the OWNER), shall have given written notice to any two of the following: the PRINCIPAL, the OWNER, or the SURETY above named within ninety (90) days after such claimant did or performed the last of the WORK or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the WORK or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date of which PRINCIPAL ceased WORK on said CONTRACT, is being understood, however, that if any limitation embodied in the BOND is prohibited by law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the CONTRACT not increasing the CONTRACT price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the CONTRACT as so amended. The term “Amendment”, wherever used in this BOND and whether referring to this BOND, the CONTRACT or the loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER or GOVERNMENT and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which
(Number)

shall be deemed an original, this the _____ day of _____.

ATTEST:

_____
Principal

_____
(Principal) Secretary

SEAL

By _____

_____

_____ _____
(Witness as to Principal) (Address)

_____
(Address)

_____ _____
Surety

ATTEST:

| | |
|---|---|
| _____ | BY _____ |
| Witness to Surety | Attorney-in-Fact |
| _____ | _____ |
| (Address) | (Address) |

NOTE: Date of BOND must not be prior to date of CONTRACT.

If CONTRACTOR is partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

# CONTRACT

THIS AGREEMENT, made this _____ day of _____, 20 _____, by and between
_____.

(Corporate Name and Owner)

Herein through its _____, and

(Title of Authorized Official)

_____

*STRIKE OUT* (a corporation) (a partnership)

*INAPPLICABLE** (an individual doing business as _____) of _____, County of _____, and State of _____, Hereinafter called "Contractor."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows:

_____
_____
_____
_____
_____

Hereinafter called the project, for the sum of _____ Dollars ($_____) and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the Contract; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, Supplemental General Conditions, and Special Conditions of the contract, the plans, which include all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by _____, herein entitled the Architect/Engineer, all of which are made a part hereof and collectively evidence and constitute the contract.

The Contractor hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete the project within _____ consecutive calendar days thereafter. The Contractor further agrees to pay, as liquidated damages, the sum of $ _____ for each consecutive calendar day thereafter as hereinafter provided in Paragraph 15 of the General Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Paragraph 19, "Payments to Contractor, " of the General Conditions.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in six (6) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

ATTEST: _____

(Owner)

_____ By _____

(Secretary)

_____ _____

(Witness) (Title)

SEAL _____

(Contractor)

_____ By _____

(Secretary)

_____ _____

(Witness) (Title)

_____

(Address and ZIP Code)

**Note**: Secretary of the Owner should attest. If Contractor is a corporation, Secretary should attest.

# CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned,_____, the duly authorized and acting legal representative of _____, do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

_____

(Signature)

_____

(Date)

# ENGINEER/CONSULTANT'S CERTIFICATION FOR ACCEPTANCE AND FINAL PAYMENT

**Owner**: _____

**Project No.**: _____

**Project**:_____

**Contractor**: _____

**Engineer**: _____

**Contract Date**: _____

**Date of Completion and Acceptance**: _____

The Contractor has notified me that he has completed all work in accordance with the Contract Documents and that it is functioning properly.

I hereby certify that a final inspection of all work under the Contract Documents was conducted by me and to the best of my knowledge; the work has been completed in accordance with the drawings and specifications and is functioning properly.

I have approved all payment estimates, and prepared and received approval of all change orders. I have received the required certifications; instructions for operating the equipment, manuals, and other documents that are applicable to this project from the Contractor and have delivered them to the Owner.

The Owner is now responsible for the security, operation, safety, maintenance, and insurance as applicable to the project. The contractor will warranty all specified work for a period of one year (or a longer period if governed by Missouri Statutes) from this date of completion. Notification has been given to the proper Government agencies that the work is completed.

I recommend, under the provision of the Contract Documents that the Work be accepted and that final payment be made.

Executed by the Engineer on this _____day of _____, 20__.

_____ _____

(Typed Name of Engineer) (Signature of Engineer)

SEAL

The work described above accepted by the consultant is hereby acknowledged and final payment authorized.

_____ _____

(Date) (Owner)

Attest: _____ _____

(Clerk) (Name and Title of Official)

SEAL

cc: CDBG, Contractor, Owner, Consultant and Rural Development

# Community Development Block Grant Program

# GENERAL CONDITIONS

**Contents***

1. Definitions
2. Additional Instructions and Detail Drawings
3. Schedules, Reports and Records
4. Drawings and Specifications
5. Shop Drawings
6. Materials, Services, and Facilities
7. Inspection and Testing of Materials
8. Substitutions
9. Patents
10. Surveys, Permits, and Regulations
11. Protection of Work, Property, Persons
12. Supervision by Contractor
13. Changes in Work
14. Changes in Contract Price
15. Time for Completion and Liquidated Damages
16. Correction of Work
17. Subsurface Conditions
18. Suspension of Work, Termination and Delay
19. Payments to Contractor
20. Acceptance of Final Payments as Release
21. Insurance
22. Contract Security
23. Assignments
24. Indemnification
25. Separate Contracts
26. Subcontracting
27. Architect/Engineer's Authority
28. Lands and Right-of-Way
29. Guarantee
30. Remedies
31. Taxes
32. Provisions Required by Law Deemed Inserted
33. Protection of Lives and Health
34. Interest of Member of Congress
35. Other Prohibited Interests
36. Suspension of Work
37. Minimum Wages
38. Underpayment of Wages or Salaries
39. Anticipated Loss of Fringe Benefits
40. Overtime Compensation
41. Employment of Apprentices/Trainees
42. Employment Prohibited
43. Compliance with Anti-Kickback Act
44. Classifications Not Listed
45. Fringe Benefits Not Expressed
46. Posting Wage Rates
47. Complaints, Proceedings, or Testimony
48. Claims and Disputes
49. Questions Concerning Regulations
50. Payrolls and Records
51. Specific Coverage
52. Breach of Labor Standards
53. Employment Practices
54. Authorized Employees

1. DEFINITIONS

The following terms as used in this contract are respectively defined as follows:

a. "Contractor": A person, firm, or corporation with whom the contract is made by the Owner.

b. Subcontractor": A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the contractor.

c. "Work on (at) the project": Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor and any Subcontractor.

d. "Written Notice": Any work to any party of the Agreement relative to any part of this in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at their last given address, or delivered in person to said party or their authorized representative on the work.

2. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

   The Contractor may be furnished additional instructions and detail drawings, by the A/E, as necessary to carry out the work required by the contract documents.

   The additional drawings and instructions thus supplied will become a part of the contract drawings. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

3. SCHEDULE, REPORTS AND RECORDS

   The Contractor shall submit to the owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data where applicable as are required by the contract documents for the work to be performed.

   Prior to the first partial payment estimate the Contractor shall submit construction progress schedules showing the order in which the Contractor proposes to carry on the work, including dates at which the various parts of the work will be started, estimated date of completion of each part and as applicable.

   The dates at which special drawings will be required and respective dates for submission of shop drawings, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.

   The Contractor shall also submit a schedule of payments that the Contractor anticipates will be earned during the course of the work.

4. DRAWINGS AND SPECIFICATIONS

   The intent of the drawings and specifications is that the Contractor shall furnish all labor, materials, tools, equipment and transportation necessary for the proper execution of the work in accordance with the contract documents and all incidental work necessary to complete the project in an acceptable manner, ready for use, occupancy or operation by the owner.

   In case of conflict between the drawings and specification, the specification shall govern. Figure dimensions on drawings shall govern over general drawings.

   Any discrepancies found between the drawings and specifications and site conditions or any inconsistencies or ambiguities in the drawings or specifications shall be immediately reported to the A/E in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.

5. SHOP DRAWINGS

   The Contractor shall provide shop drawings as may be necessary for the prosecution of the work as required by the contract documents. The A/E shall promptly review all shop drawings. The A/E's approval of any shop drawing shall not release the Contractor from responsibility for deviations from the contract documents. The approval of any shop drawing which substantially deviates from the requirement of the contract documents shall be evidenced by a change order.

   When submitted for the A/E's review, shop drawings shall bear the Contractor's certification that he has reviewed, checked and approved the shop drawings and that they are in conformance with the requirements of the contract documents.

   Portions of the work requiring a shop drawing or sample submission shall not begin until the shop drawing or submission has been approved by the A/E. A copy of each approved shop drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the A/E.

6. MATERIALS, SERVICES AND FACILILTIES

It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection.

Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

Material, supplies and equipment shall be in accordance with samples submitted by the Contractor and approved by the A/E.

Materials, supplies or equipment to be incorporated into the work shall not be purchased by the Contractor or by any Subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller when a Payment Bond is not required the contract documents.

7. INSPECTION AND TESTING OF MATERIALS

All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the contract documents

The Owner shall provide all inspection and testing services not required by the contract documents.

The Contractor shall provide at the Contractor's expense the testing and inspection services required by the contract documents.

If the contract documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by someone other than the Contractors, the Contractor will give the A/E timely notice of readiness. The Contractor will then furnish the A/E the required certificates of inspection, testing approval.

Inspections, tests or approvals by the A/E or others shall not relieve the Contractor from the obligations to perform the work in accordance with the requirements of the contract documents.

The A/E and the A/E's representatives will at all times have access to the work. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all work, materials, payrolls, records or personnel, invoices of materials and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing thereof.

If any work is covered contrary to the written instruction of the A/E it must, if requested by the A/E, be uncovered for the A/E's observation and replaced at the Contractor's expense.

If the A/E considers it necessary or advisable that covered work be inspected or tested by others, the Contractor, at the A/E's request, will uncover, expose or otherwise make available for observation, inspection or testing as the A/E may require, that portion of the work in question, furnishing all necessary labor, materials, tools and equipment,. If it is found that such work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, if, however, such work is not found defective, the contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly

attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate change order shall be issued.

Authorized representatives and agents of the Department of Housing and Urban Development (HUD) and/or the Department of Economic Development (DED) shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

8. SUBSTITUTIONS

Whenever a material, article, or piece of equipment is identified on the drawings and specifications by referenced to brand name or catalog numbers, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacitates, quality and function shall be considered. The Contractor may recommend the substitution of material, article or piece of equipment of equal substance and function for those referred to in the contract documents by referenced to brand name or catalog number, if, in the opinion of the A/E, such material, article or piece of equipment is of equal substance function to that specified, the A/E may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the contract price and the contract documents shall be appropriately modified by change order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the contract price or contract time.

9. PATENTS

The Contractor shall pay all applicable royalties and license fees, and shall defend all suits or claims for infringement of any patent rights and save the owner harmless from loss on account thereof, except that the Owner shall be responsible for any such loss when a particular process, design, or product of a particular manufacturer or manufacturers is specified, however, if the Contractor has reason to believe that design, process or product specified is an infringement of a patent, the Contractor shall be responsible for such loss unless the Contractor promptly gives such information to the A/E.

10. SURVEYS, PERMITS, AND REGULTIONS

The Owner shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the work together with a suitable number of bench marks adjacent to the work as shown in the contract documents. From the information provided by the Owner, unless otherwise specified in the contract documents, the Contractor shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pipe locations and other working points, lines, elevations and cut sheets.

The Contractor shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, shall be charged with the resulting expense and shall be responsible for any mistake that may be caused by their unnecessary loss or disturbance.

Permits and licenses of temporary nature necessary for the prosecution of the work shall be secured and paid for by the contractors unless otherwise stated in the supplemental general conditions. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the owner, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the contract documents are at variance therewith, the Contractor shall promptly notify the A/E in writing, and any necessary changes shall be adjusted as provided in Section 13 changes in the work.

11. PROTECTION OF WORK, PROPERTY, PERSONS

The Contractor will be responsible for initiating, maintain and supervising all safety precautions and programs in connection with the work. The Contractor will take all necessary precautions for the safety or, and will provide the necessary protection to prevent damage, injury or loss to all employees on the work and other persons who may be affected thereby, all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walk pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. The Contractor shall comply with all pertinent provisions of the Occupational Safety and Health Administration (OSHA) and any State Safety and Health agency requirements.

The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. The Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protections. The Contractor will notify owners of adjacent utilities when prosecution of the work may affect them. The Contractor will remedy all damage, injury or loss to any property caused directly or indirectly, in whole or part, by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone whose acts any of them be liable, except damage or loss attributable to the fault of the contract documents or to the acts or omissions of the owner, of the A/E or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.

In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Contractor, without special instructions or authorization from the A/E or owner, shall act to prevent threatened damage, injury or loss. The Contractor will give the A/E prompt written notice of any significant changes in the work or deviations from the contract documents caused thereby and a change order shall thereupon be issued covering the changes and deviations involved.

12. SUPERVISION BY CONTRACTOR

The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain on the work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor or the Contractor's representative at the site. The supervisor shall have full authority to act on behalf of the Contractor and all communications given to the supervisor shall be a binding as if given to the Contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

13. CHANGES IN WORK

The Owner may at any time, as need arises, order changes within the scope of the work without invalidating the agreement. If such changes increase or decrease the amount due under the contract documents, or in the time required for performance of the work, an equitable adjustment shall be authorized by change order. Change order shall be used to adjust quantities of installed units which are different than those shown in the bid schedule because of final measurements. Final measurements shall not be considered changes in the work. Final measurements will determine compensation to the Contractor based on unit price shown in bid schedule.

The A/E, also, may at any time, by issuing a field order, make changes in the details of the work. The Contractor shall proceed with the performance of any changes in the work so ordered by the A/E unless the Contractor believes that such field order entitles the Contractor to a change in contract price or time or both, in which event the Contractor shall give the A/E written notice thereof within seven (7) days after the receipt of the ordered change. Thereafter the Contractor shall document the

basis for the change in contract price or time within thirty (30) days. The Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from the owner.

14. CHANGES IN CONTRACT PRICE

The contract price may be changed only by a change order. The value of any work covered by a change order or any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in the order of precedence listed below.

a. Unit prices previously approved

b. An agreed lump sum

15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

The date of beginning and the time for completion of the work are essential conditions of the contract documents and the work embraced shall be commenced on a date specified in the "Notice to Proceed"

The Contractor will proceed with the work at such rate of progress to insure full completion within the contract time. It is expressly understood and agreed, by and between the Contractor and the Owner, that the contract time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work.

If the Contractor shall fail to complete the work within the contract time or extension of time granted by the Owner, then the Contractor will pay to the Owner the amount for liquidated damages as specified in the bid each calendar day that the Contractor shall be in default after the time stipulated in the contract documents.

The Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to the following and the contractor has promptly given written notice of such delay to the Owner or A/E.

To any preference, priority or allocation order duly issued by the Owner.

To unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and abnormal and unforeseeable weather; and to any delays of Subcontractors occasioned by any of the causes specified in this article.

16. CORRECTION OF WORK

The Contractor shall promptly remove from the premises all work rejected by the A/E for failure to comply with the contract documents, whether incorporated in the construction or not, and the Contractor shall promptly replace and reexecute the work in accordance with the contract documents and without expense to the owner and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work within ten (10) days after receipt of written notice, the Owner may remove such work and store the materials at the expense of the Contractor.

17. SUBSURFACE CONDITIONS

The Contractor, before bidding the project, has the responsibility to become familiar with the site of the project and the conditions under which work will have to be performed during the construction period.

Excavating for foundations of surface structure: buildings, bridges, tanks, towers, retaining walls and other types of surface structures.

The Contractor shall promptly, and before such conditions are disturbed, except in the event of an emergency, notify the owner by written notice of subsurface or latent physical conditions at the site differing materially from those indicated in the contract documents.

Or unknown physical conditions at the site of unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for the contract documents.

The Owner shall promptly investigate the conditions, and if it is found that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the work, an equitable adjustment shall be made and the contract documents shall be modified by a change order. Any claim of the Contractor for adjustment hereinafter shall not be allowed unless the required written notice has been given; provided that the Owner may, if the Owner determines the facts so justify consider and adjust any such claims asserted before the date of the final payment.

Excavating for below-surface structures: water mains, sewers, power and telephone cables and other types of below surface structures.

No extra compensation will be paid for rock excavation or varying geologic features encountered on the project, unless so shown as a bid item in the Bid Schedule for bid.

If man-made hazards are encountered by the Contractor, excluding utilities, which are not visible from the surface, such as buried concrete foundations, buried garbage dumps that cannot be by-passed and requires additional work consult the A/E.

18. SUSPENSION OF WORK, TERMINATION AND DELAY

The Owner may suspend the work or any portion thereof for a period of not more than ninety days or such further time as agreed upon by the Contractor, by written notice to the Contractor and the A/E which shall fix the date on which work shall be resumed. The Contractor will resume that work on the date do fixed. The Contractor will be allowed an increase in the contract price or an extension of the contract time, or both, directly attributable to any suspension.

If the Contractor is adjudged a bankrupt or insolvent, or makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the Contractor or for any of its property, or if Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or repeatedly fails to make promptly payments to Subcontractors or for labor, materials or equipment or disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work or disregards the authority of the A/E, or otherwise violates any provision of the contract documents, then the owner may, without prejudice to any other right or remedy and after giving the Contractor and its surety a minimum of ten (10) days from delivery of a written notice, terminate the services of the Contractor and take possession of the project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and finish the work by whatever method the Owner may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct and indirect costs of completing the project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor will pay the difference to the owner. Such costs incurred by the Owner will be determined by the A/E and incorporated in a change order.

Where the Contractor's services have been so terminated by the owner, said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the owner due the Contractor will not release the Contractor from compliance with the contract documents.

After ten (10) days from delivery of written notice the Contractor and the A/E, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the contract. In such case the Contractor shall be paid for all work executed and any expense sustained plus reasonable profit.

If, through no act or fault of the Contractor, the work is suspended for a period of more than ninety (90) days by the Owner or under an order of court or other public authority, or the A/E fails to act on any request for payment within thirty (30) days after its is submitted, or the Owner fails to pay the Contractor substantially the sum approved by the A/E or awarded by arbitrators within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of written notice to the Owner and the A/E terminate the contract and recover from the Owner payment for all work executed and all expenses sustained. In addition and in lieu of terminating the contract, if the A/E has failed to act on a request for payment or if the owner has failed to make any payment as aforesaid, the Contractor may upon ten (10) days written notice to the owner and the A/E stop the work until paid all amount then due, in which event and upon resumption of the work, change orders shall be issued for adjusting the contract price or extending the contract time or both to compensate for the costs and delays attributable to the stoppage of the work.

If the performance of all or any portion of the work is suspended, delayed, or interrupted as a result of a failure of the owner or A/E to act within the time specified in the contract documents, or if no time is specified, within a reasonable time, an adjustment in the contract price or an extension of the contract time, or both, shall be made in change order to compensate the Contractor for the costs and delays necessarily caused by the failure of the owner or A/E

The Owner, without terminating the service of the Contractor or written notice to the Surety, through the A/E may withhold – without prejudice to the rights of the Owner under the terms of the agreement – or on account of subsequently discovered evidence, nullify the whole or part of any approved partial payment estimate to such extent as may be necessary to protect the owner from loss on account of: defective work not remedied, claims filed or reasonable evidence indicating probable filing of claims, failure of Contractor to make payments properly to Subcontractors or for material or labor, a reasonable doubt that the work can be completed for the balance then unpaid damages to another Contractor and performance of work in violation of the terms of the contract documents.

19. PAYMENTS TO CONTRACTOR

At least ten (10) days before each progress payment falls due (but not more often than once a month), the Contractor will submit to the A/E a partial payment estimate filled out and signed by the Contractor covering the work performed during the period covered by the partial payment estimate and supported by such data as the A/E may reasonable require. The A/E will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing approval of payment, and present the partial payment estimate to the Owner, or return the partial payment estimate to the Contractor indicating in writing the reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate. The Owner will, within thirty (30) days of presentation of an approved partial payment estimate pay the Contractor a progress payment on the basis of the approved partial payment estimate less the retainage. The retainage shall be an amount equal to 5% of said estimate until completion and acceptance of the work. The 5% retainage may be reduced by change order if completion and acceptance of the work is delayed due to valid circumstances and the work is usable for its intended purpose by the owner. If

reduction in the retainage is approved the remaining retainage shall be an amount sufficient to complete the work.

The request for payment may also include an allowance for the cost of major materials and equipment which are suitable stored either at or near the site. Payment does not relieve the Contractor of his responsibility for the safe keeping of this material and equipment.

Prior to completion and acceptance of the work, the owner, with approval of the A/E and with the concurrence of the Contractor, may use any completed or substantially completed portions of the work. Such use shall not constitute an acceptance of such portions of the work.

The Owner shall have the right to enter the premises for the purpose of doing work not covered by the contract documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the work, or the restoration of any damaged work except such as may be caused by agents or employees of the owner.

Upon completion and acceptance of the work, the A/E shall issue a certificate attached to the final payment request that the work has been accepted under the conditions of the contract documents. The entire balance found to be due to the Contractors, including the retained percentages, but except such sums as may be lawfully retained by the Owner, shall be paid to the Contractor within thirty (30) days of completion and acceptance of the work. The A/E's certificate of acceptance will be on the document "Consultant's Certification for Acceptance and Final Payment".

The Contractor will indemnify and save the Owner or the Owner's agents harmless from all claims growing out of the lawful demand of Subcontractors, laborers, workmen, mechanics, materialmen and furnishers of machinery and parts thereof, equipment, tools and all supplies incurred in the furtherance of the performance of the work. The Contractor shall, at the Owner's request furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the Contractor fails to do so the Owner may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonable sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed in accordance with the terms of the contract documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor, the Contractor's Surety, or any third party. In paying any unpaid bills of the Contractor, any payment so made by the Owner shall be considered as a payment made under the contract documents by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

If the Owner fails to make payment thirty (30) days after approval by the A/E, in addition to other remedies available to the Contractor, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the Contractor. The legal rate of interest shall be as specified in RSMo 34.057.

In the event that the Missouri Department of Labor and Industrial Relations has determined that a violation of Section 292.675, RSMo, has occurred and that a penalty as described in paragraph 11shall be assessed, the Owner shall withhold and retain all sums and amounts due and owing when making payments to Contractor under this Contract.

20. ACCEPTANCE OF FINAL PAYMENTS AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. Any

payment, however final or otherwise, shall not release the Contractor or its sureties from any obligations under the contract documents or the Performance and Payment Bonds.

21. INSURANCE

The Contractor shall purchase and maintain such insurance as will protect it from claims set forth below which may arise out of, or result from, the Contractor's execution of the work, whether such execution be by the Contractor or Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

a. Claims under workmen's compensation, disability benefit and other similar employee benefit acts;

b. Claims for damages because of bodily injury, occupational sickness or disease, or death of employee;

c. Claims for damages because of bodily injury, sickness or disease, or death of any person other than employees;

d. Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person and;

e. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom.

Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the work. These Certificates shall contain a provision that coverages afforded under the policies will not be cancelled unless at least fifteen (15) days prior written notice has been given to the Owner.

The Contractor shall procure and maintain, at the Contractor's own expense, during the contract time, liability insurance as hereinafter specified:

a. Contractor's General Public Liability and Property Damage Insurance including vehicle coverage issued to the Contractor and protecting the Contractor from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the contract documents, whether such operations be by the Contractor or by any Subcontractor employed by the Contractor or anyone directly or indirectly employed by the Contractor or by a Subcontractor employed by the Contractor and also to include coverage for Products and/or Completed Operations. Insurance shall be written with a combined single limit for injury and/or property damage liability or not less than $2,000,000 per occurrence and with an aggregate or not less than $2,000,000.

b. Where the work to be performed under the contract documents involved excavation or other underground work or construction, the Property Damage Insurance provided shall cover all injury to or destruction of property below the surface of the ground, such as wires, conduits, pipes, mains, sewers, etc., caused by the Contractor's operations, Property Damage Insurance shall also cover the collapse of, or structural injury to, any buildings or structure on or adjacent to the Owner's premises, or in injury to or destruction of property resulting therefrom, caused by the removal of other buildings, structures, or supports, or by excavations below the ground where the construction of a new structure or the demolition of an existing structure involves any of the foregoing designated hazards and in all cases where the contract provides for alternations in, additions to, or the underpinning of an existing structure or structures. Before any blasting will be permitted, the Contractor shall be required to obtain a Blasting Endorsement on his Public Liability and Property Damage Insurance Policy.

c. The Contractor shall secure Contractor's Contingent or Protective Liability and Property Damage to protect the Contractor from any and all claims arising from the operations of Subcontractor employed by the Contractor. The minimum amounts of such insurance shall be as required for Public Liability and Property Damage Insurance.

d. The Contractor shall purchase, maintain and deliver to the Owner a Protective Liability Policy in the name of the Owner for operations of the Contractor or any Subcontractor in connection with the execution of the agreement. The minimum amounts of such insurance shall be the same as required for Public Liability and Property Damage Insurance.

e. The Contractor shall maintain Automobile Public Liability and Property Damage Insurance to protect the Contractor from any and all claims arising from the use of the following in the execution of the work: a) Contractor's own automobiles and trucks. b) Hired automobiles and trucks. c) Automobiles and trucks not owned by the Contractor. The insurance shall cover the use of the automobiles and trucks both on and off the site of the project. The minimum amounts of such insurance shall be the same as required for Public Liability and Property Damage Insurance.

The Contractor shall procure and maintain, at the Contractor's own expense during the contract time, in accordance with the provisions of the laws of the state in which the work is performed, Workmen's Compensation Insurance, including occupational disease provisions, for all the Contractor's employees at the site of the project and in case any work is sublet, the Contractor shall require such Subcontractor similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under Workmen's Compensation statue, the Contractor shall provide, and shall cause each Subcontractor to provide, adequate and suitable insurance for the protection of its employees not otherwise protected.

The Contractor shall secure, if applicable, "All Risk" type Builder's Risk Insurance for work to be performed. Unless specifically authorized by the Owner, the amount of such insurance shall not be less than the contract price totaled in the bid. The policy shall cover not less than the losses due to fire, explosion, hail, lightning, vandalism, malicious mischief, wind, collapse, riot, aircraft and smoke during the contract time, and until the work is accepted by the Owner. The policy shall name as the insured, as their interests may appear, the Owner, Contractor, and Subcontractor. This provision shall in no way release the Contractor or Contractor's surety from obligations under the contract documents to fully complete the project.

22. CONTRACT SECURITY

The Contractor shall within fifteen (15) days after the receipt of the Notice of Award furnish the Owner with a Performance Bond and Payment Bond in an amount at least equal to one hundred percent (100%) of the contract price, conditioned upon the performance by the Contractor all undertakings, covenants, terms, conditions and agreements of the contract documents, and upon the prompt payment by the Contractor to all persons supplying labor and materials in the prosecution of the work provided by the contract documents. Such bonds shall be executed by the Contractor and a corporate bonding company licensed to transact such business in the state in which the work is to be performed and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these bonds shall be borne by the Contractor. If at any time a surety on any such bond is declared a bankrupt or loses its right to do business the state in which the work is to be performed or is removed from the list of Surety Companies accepted on Federal Bonds, Contractor shall within ten (10) days after notice from the Owner to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such

other surety or sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the Owner.

23. ASSIGNMENTS

Neither the Contractor nor the Owner shall sell, transfer, assign, or otherwise dispose of the contract or any portion thereof, or of any right, title or interest therein, or any obligations thereunder, without written consent of the other party.

24. INDEMNIFICATION

The Contractor will indemnify and hold harmless the Owner and the A/E and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the work, provided that any such claims, damages, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the Contractor and Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

25. SEPARATE CONTRCT

The Owner reserves the right to let other contracts in connection with this project. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate the work with theirs. If the proper execution or results of any part of the Contractor's work depends upon the work of any other Contractor, the Contractor shall inspect and promptly report to the A/E any defects in such work that render it unsuitable for such proper execution and results.

The Owner may perform additional work related to the project or the Owner may let other contracts containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such contracts (or the Owner, if the Owner is performing the additional work) reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate the work with theirs.

If the performance of additional work by other Contractors or the Owner is not noted in the contract documents prior to the execution of the contract, written notice thereof shall be given to the Contractor prior to starting any such addition work. If the Contractor believes that the performance of such additional work by the Owner or others involves it in additional expense or entitles it to any extension of the contract time the Contractor may make a claim thereof as provided in Section 14 and 15.

26. SUBCONTRACTING

The Contractor may utilize the services of specialty subcontractors on those parts of the work, which, under normal contracting practices, are performed, by specialty subcontractors.

The Contractor shall be fully responsible to the Owner for the acts and omissions of its Subcontractors, and of person either directly or indirectly employed by them, as the Contractor is for the acts and omissions of person directly employed by it.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind Subcontractors to the Contractor by the terms of the contract documents insofar as applicable to the work of Subcontractors and give the Contractor the same power as regards terminating any Subcontract that the Owner may exercise over the Contractor under any provision of the contract documents.

Nothing contained in this contract shall create any contractual relation between any Subcontractor and the Owner.

The Contractor will insert in any subcontracts the Federal Labor Standards Provisions contained herein and such other clauses as the Department of Housing and Urban Development may, by instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

27. ARCHITECT/ENGINEER'S AUTHORITY

The A/E shall act as the Owner's representative during the construction period, shall decide questions which may arise as the quality and acceptability of materials furnished and work performed, and shall interpret the intent of the contract documents in a fair and unbiased manner. The A/E will make visits to the site and determine if the work is proceeding in accordance with the contract documents.

The Contractor will be held strictly to the intent of the contract documents in regard to the quality of materials, workmanship, and execution of the work. Inspections may be at the factory or fabrication plant of the source of the material supply.

The A/E will not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.

The A/E shall promptly make decisions relative to interpretation of the contract documents.

The A/E shall be responsible for obtaining an acknowledgement of the "Consultant's Certification for Acceptance and Final Payment" from the Owner before the certifications may take effect.

28. LANDS AND RIGHT-OF-WAY

Prior to issuance of Notice to Proceed, the Owner shall obtain all lands and rights-of-way necessary for the carrying out and completion of work to be performed pursuant to the contract documents, unless otherwise mutually agreed.

The Owner shall provide to the Contractor information which delineates and describes the lands owned and right-of-way acquired.

The Contractor shall provide at its own expense and without liability to the Owner any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of materials.

29. GUARANTEE

The Contractor shall guarantee all materials and equipment furnished and work performed for a period of one (1) year from the date of completion and acceptance of the work. The Contractor warrants and guarantees for one (1) year from the date of completion and acceptance of the work that the completed work is free from all defects due to faculty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any other damages that were caused by defects in the work. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred. In emergency where, in the judgment of the Owner, delay would cause serious loss or damage, repairs and replacement of defects in the work and damage caused by defects may be made without notice being sent to the Contractor, and the Contractor shall pay the cost thereof. The Performance Bond shall remain in full force and effect through the guarantee period.

30. REMEDIES

Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breech thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

31. TAXES

The Contractor will pay all sales, consumer, use and other similar taxes required by the laws of the place where the work is performed.

When any exempt entity contracts for the purpose of constructing, repairing or remodeling facilities, and purchases of tangible personal property and materials to be incorporated into or consumed in the construction of the project are to be made on a tax-exempt basis, such entity shall furnish to the contractor an exemption certificate authorizing such purchases for the construction, repair or remodeling project. The form and content of such project exemption certificate shall be approved by the director of revenue. The project exemption certificate shall include but not be limited to:

a. The exempt entity's name, address, Missouri tax identification number and signature of authorized representative
b. The project location, description, and unique identification number
c. The date the contract is entered into, which is the earliest date materials may be purchased for the project on a tax-exempt basis
d. The estimated project completion date
e. The certificate expiration date

32. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith by physically amended to make such insertion or correction.

33. PROTECTION OF LIVES AND HEALTH

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971. Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Contracting Authority may determine to be reasonably necessary.

**Safety Training**

a. Contractor shall provide a ten (10) hour Occupational Safety and Health Administration (OSHA) construction safety program for all employees who will be on-site at the Project. The construction safety program shall include a course in construction safety and health that is approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program as required by Section 292.675, RSMo.

b. Contractor shall require its on-site employees to complete a construction safety program within sixty (60) days after the date work on the Project commences.

c. Contractor acknowledges and agrees that any of Contractor's employees found on the Project site without documentation of the successful completion of a construction safety program shall be required to produce such documentation within twenty (20) days, or will be subject to removal from the Project.

d. Contractor shall require all of its Subcontractors to comply with the requirements of this Section and Section 292.675, RSMo.

**Notice of Penalties for Failure to Provide Safety Training**

a. Pursuant to Section 292.675, RSMo, Contractor shall forfeit to City as a penalty two thousand five hundred dollars ($2,500), plus one hundred dollars ($100.00) for each on-site employee employed by Contractor or its Subcontractor, for each calendar day, or portion thereof, such on-site employee is employed without the construction safety training required in above Paragraph.

b. The penalty described in Subsection a. of this Section shall not begin to accrue until the time periods described in Paragraph b and c above have elapsed.

c. Violations of above Paragraph and imposition of the penalty described in this Section shall be investigated and determined by the Missouri Department of Labor and Industrial Relations.

34. INTEREST OF MEMBER OF OR DELEGATE TO CONGRESS

No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

35. OTHER PROHIBITED INERESTS

No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction, or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer, or inspector of or for the owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory, or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

36. SUSPENSION OF WORK

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason or any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

37. MINIMUM WAGE

All laborers and mechanics employed upon the work covered by this Contract shall be paid unconditionally and not less often than once each week, and without subsequent deduction or rebate on any account (except such payroll deductions as are made mandatory by law and such other payroll deductions as are permitted by the applicable regulations issued by the Secretary of Labor, United

States Department of Labor, pursuant to the Anti-Kickback Act hereinafter identified), the full amount due at time of payment computed at wage rates not less than those contained in the wage determination decision of said Secretary of Labor (a copy of which is attached and herein incorporated by reference), regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such laborers and mechanics. All laborers and mechanics employed upon such work shall be paid in cash, except that payment may be by check if the employer provides or secures satisfactory facilities approved by the Local Public Agency or Public Body for the cashing of the same without cost or expense to the employee. For the purpose of this clause, contributions made or costs reasonably anticipated under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section 5.5 (a)(1)(IV) of Title 29, Code of Federal Regulations. Also for the purpose of this clause, regular contributions made or cost incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

38. UNDERPAYMENT OF WAGES OR SALARIES

    In case of underpayment of wages by the Contractor or by any subcontractors to laborers or mechanics employed by the Contractor or subcontractor upon the work covered by this Contract, the Local Public Agency or Public Body in addition to such other rights as may be afforded it under this Contract shall withhold from the Contractor, out of any payments due the Contractor, so much thereof as the Local Public Agency or Public Body may consider necessary to pay such laborers or mechanics the full amount of wages required by this Contract. The amount so withheld may be disbursed by the Local Public Agency or Public Body, for and on account of the Contractor or the subcontractor (as may be appropriate), to the respective laborers or mechanics to whom the same is due or on their behalf to plans, funds, or programs for any type of fringe benefit prescribed in the applicable wage determination.

39. ANTICIPATED COSTS OF FRINGE BENEFITS

    If the Contractor does not make payments to a trustee or other third person, he may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing fringe benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is a part of this Contract. Provided, however, The Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. A copy of any findings made by the Secretary of Labor in respect to fringe benefits being provided by the Contractor must be submitted to the Local Public Agency or Public Body with the first payroll filed by the Contractor subsequent to receipt of the findings.

40. OVERTIME COMPENSATION REQUIRED BY CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (76 Stat. 357-360: Title 40 U.S.C., Sections 327-332)

    a. Overtime Requirements. No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of 40 hours in such work week, as the case may be.

    b. Violation: Liability for Unpaid Wages Liquidated Damages. In the event of any violation of the clause set forth in paragraph (a), the Contractor and any subcontractor responsible therefore

shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violations of the clause set forth in paragraph (a), in the sum of $25 for each calendar day on which such employee was required or permitted to work in excess of 8 hours or in excess of the standard workweek or 40 hours without payment of the overtime wages required by the clause set forth in paragraph (a).

c. Withholding for liquidated damages. The Local Public Agency or Public Body shall withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided in the clause set forth in paragraph (b).

41. EMPLOYMENT OF APPRENTICES/TRAINEES

a. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed and individually registered in a bona-fide apprenticeship program registered with the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractors to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (b) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

b. Trainees. Except as provided in 29 CFR 5.15 trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the

applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, as 29 CFR Part 30.

42. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED

No person under the age of sixteen years and no person who, at the time, is serving sentence in a penal or correctional institution shall be employed on the work covered by this Contract.

43. REGULATIONS RURSUANT TO SO-CALLED “ANTI-KICKBACK ACT" Title 18, U.S.C. 874 KICKBACKS FROM PUBLIC WORKS EMPLOYEES

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

44. EMPLOYMENT OF LABORERS OR MECHANICS NOT LISTED IN AFORESAID WAGE DETERMINATION DECISION

Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract will be classified or reclassified conformably to the wage determination by the Local Public Agency or Public Body, and a report of the action taken shall be submitted by the Local Public Agency or Public Body, through the Secretary of Housing and Urban Development, to the Secretary of Labor, United States Department of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of the Local Public Agency of Public Body shall be referred, through the Secretary of Housing and Urban Development, to the Secretary of Labor for final determination.

45. FRINGE BENEFITS NOT EXPRESS AS HOURLY WAGE RATES

The Local Public Agency or Public Body shall require, whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the Contractor is obligated to pay cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the Local Public Agency or Public Body, shall be referred, through the Secretary of Housing and Urban Development, to the Secretary of Labor for determination.

46. POSTING WAGE DETERMINATION DECISIONS AND AUTHORIZED WAGE DEDUCTIONS

The applicable wage poster of the Secretary of Labor, United States Department of Labor, and the applicable wage determination decisions of said Secretary of Labor with respect to the various classification of laborers and mechanics employed and to be employed on the work covered by this Contract, and a statement showing all deductions, if any, in accordance with the provisions of this Contract, to be made from wages actually earned by persons so employed or to be employed in such classifications, shall be posted at appropriate conspicuous points at the site of the work.

47. COMPLIANTS, PROCEEDINGS, OR TESTIMONY BY EMPLOYEES

No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

48. CLAIMS AND DISPUTES PERTAINING TO WAGE RATES

Claims and disputes pertaining to wage rates or to classifications of laborers and mechanics employed upon the work covered by this Contract shall be promptly reported by the Contractor in writing to the Local Public Agency or Public Body for referral by the latter through the Secretary of Housing and Urban Development to the Secretary of Labor, United States Department of Labor, whose decision shall be final with respect thereto.

49. QUESTIONS CONCERNING CERTAIN FEDERAL STATUES AND REGULATIONS

All questions arising under this Contract which relate to the application or interpretation of (a) the aforesaid Anti-Kickback Act, (b) the Contract Work Hours and Safety Standards Act, (c) the aforesaid Davis-Bacon Act, (d) the regulations issued by the Secretary of Labor, United States Department of Labor, pursuant to said Acts, or (e) the labor standards provisions of any other pertinent Federal statute, shall be referred through the Local Public Agency or Public Body and the Secretary of Housing and Urban Development to the Secretary of Labor, United States Department of Labor, for said Secretary's appropriate ruling or interpretation which shall be authoritative and may be relied upon for the purposes of this Contract.

50. PAYROLLS AND BASIC RECORDS OF CONTRACTOR AND SUBCONTRATORS

The Contractor and each subcontractor shall prepare his payrolls on forms satisfactory to and in accordance with instructions to be furnished by the Local Public Agency or Public Body. The Contractor shall submit weekly to the Local Public Agency or Public Body two certified copies of all payrolls of the Contractor and of the subcontractors, it being understood that the Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. Each such payroll shall contain the "Weekly Statement of Compliance" set forth in section 3.3 of Title 29, Code of Federal Regulations. The payrolls and basic payroll records of the Contractor and each subcontractor covering all laborers and mechanics employed upon the work covered by this Contract shall be maintained during the course of the work and preserved for a period of 5 years thereafter. Such payrolls and basic payroll records shall contain the name, address and social security number of each employee, his correct classification, rate of pay (including rates of contributions or costs anticipated of the types described in Section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. In addition, whenever the Secretary of Labor has found under Section 5.5(a)(1)(iv) of Title 29, Code of Federal Regulations, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(3) of the Davis-Bacon Act, the Contractor or subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. The Contractor and each subcontractor shall make his employment records with respect to persons employed by him upon the work covered by this Contract available for inspection by authorized representatives of the Secretary of Housing and Urban Development, the Local Public Agency or Public Body, and the United States Department of Labor. Such representatives shall be permitted to interview employees of the Contractor or of any subcontractor during working hours on the job.

51. SPECIFIC COVERAGE OF CERTAIN TYPES OF WORK BY EMPLOYEES

    The transporting of materials and supplies to or from the site of the Project or Program to which this Contract pertains by the employees of the Contractor or of any subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the Project or Program to which this Contract pertains by persons employed by the Contractor or by any subcontractor, shall, for the purposes of this Contract, and without limiting the generality of the foregoing provisions of this Contract, be deemed to be work to which these Federal Labor Standard Provisions are applicable.

52. BREACH OF FOREGOING FEDERAL LABOR STANDARDS PROVISION

    In addition to the causes for termination of this Contract as herein elsewhere set forth, the Local Public Agency or Public Body reserves the right to terminate this Contract if the Contractor or any Subcontractor whose Subcontract covers any of the work covered by this Contract shall breach any of these Federal Labor Standards Provisions. A breach of these Federal Labor Standards Provisions may also be grounds for debarment as provided by the applicable regulations issued by the Secretary of Labor, United States Department of Labor.

53. EMPLOYMENT PRACTICES

    The Contractor shall, to the greatest extent practicable, follow hiring and employment practices for work on the project which will provide new job opportunities for the unemployed and underemployed.

54. AUTHORIZED EMPLOYEES

    Contractor acknowledges that Section285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. Contractor therefore covenants that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.

STATE OF MISSOURI )

) ss

COUNTY OF _____)

# AFFIDAVIT

(as required by Section 285.530, Revised Statues of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE: Any person performing work or service of any kind for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM: Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY: A person acts knowingly or with knowledge,

c. with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or
d. with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN: An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared

_____, who, being duly sworn, states on his oath or affirmation as follows:

6. My name is _____ and I am currently the President of _____ (hereinafter "Contractor"), whose business address is _____ "and I am authorized to make this Affidavit.
7. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.
8. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and _____
9. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.
10. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant sayeth not.

_____

Affiant

Subscribed and sworn to before me this _____day of _____, 20__.

Commission #

## Federal Labor Standards Provisions

**U.S. Department of Housing and Urban Development**
Office of Labor Relations

**Applicability**

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

**(1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and

**(2)** The classification is utilized in the area by the construction industry; and

**(3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**(b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

**(c)** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**(d)** The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**(iii)** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

**(iv)** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section l(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section l(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

**(ii) (a)** The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

**(b)** Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

**(1)** That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

**(2)** That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

**(c)** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

**(d)** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

**(iii)** The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**4. Apprentices and Trainees.**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(ii) Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant ',to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

**7. Contract termination; debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

**10. (i) Certification of Eligibility.** By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(ii)** No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

**(iii)** The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than $5,000 or imprisoned not more than two years, or both."

**11. Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable where the amount of the prime contract exceeds $100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

**(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

**C. Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds $100,000.

**(1)** No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

# U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

# SUPPLEMENTAL GENERAL CONDITIONS

1. SPECIAL EQUAL OPPORTUNITY PROVISIONS

A. Activities and Contracts Not Subject to Executive Order 11246, as Amended.

(Applicable to Federally assisted construction contracts and related subcontracts $10,000 and under.) During the performance of this contract, the contractor agrees as follows:

i. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

ii. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

iii. Contractors shall incorporate foregoing requirements in all subcontracts.

B. Executive Order 11246 (Contracts/subcontracts above $10,000)

i. Section 202 Equal Opportunity Clause

During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his

books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation, to ascertain compliance with such rules, regulations, and others.

f. In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 or September, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of the sentence immediately preceding paragraph (a) and the provisions of paragraph (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department the contractor may request the United States to enter into such litigation to protect the interest of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work. Provided, that if the applicant so participating is a State of local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government that does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following

actions cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee), refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurances of future compliance have been received from such applicant, and refer the case to the Department of Justice for appropriate legal proceedings.

ii. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246). (Applicable to contracts/subcontracts exceeding $10,000.00.)

a. The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

b. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

| Goals for minority participation: | Goals for Female participation: |
|---|---|
| 10% | 10% |

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with the Executive Order and the regulation in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

d. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any).

iii. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

a. As used in these specifications:

1. "Covered area" means the geographical area described in the solicitation from which this contract resulted.
2. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
3. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
4. "Minority" includes:
    i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
    iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).

b. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

c. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractors failure to take good faith efforts to achieve the Plan goals and timetables.

d. The Contractor shall implement the specific affirmative action standards provided in paragraphs g1 through 17 of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as

percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice from and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

e. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
f. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must make a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
g. The Contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following.
    1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
    2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
    3. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the

Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

4. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under g2 above.
6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
9. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other area of a Contractor's work force.
11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
13. Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure EEO policy and the Contractor's obligations under these specifications are being carried out.
14. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
16. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
17. Covered construction contractors performing contracts in geographical area where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

h. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (g1 through 17). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under g1 through 17 of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.

i. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
j. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
k. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
l. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontract as may be imposed or ordered pursuant to Executive Order 11246 as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications, and Executive Order 11246, as amended.
m. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least extensive as those standards prescribed in paragraph g of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
n. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate to pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
o. Nothing herein provided shall be construed as a limitation upon the application of other laws, which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

C. Certification of Non-Segregated Facilities (Over $10,000)
By the submission of this bid, the bidder, offerer, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facility at any of his

establishments, and that he does not permit employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for employees any segregated facilities at any of his establishments, and he will not permit employees to perform their services at any location under his control where segregated facilities are maintained. The bidder, offerer, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, *transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he will retain such certification in his files; and that he will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

*Parking lots, drinking fountains, recreation, or entertainment areas.

D. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this said contract agree to comply with HUD’s regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth the minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

The contractor will certify that any vacant employment positions including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other that those to whom the regulations in 24 CFR Part 135 require employment

opportunities to be directed, were not filled to circumvent the contractor's obligation under 24 CFR Part 135.

The contractor agrees to submit such reports as required to document compliance with 24 CFR Part 135. Noncompliance with the regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

2. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(Applicable to Federally assisted construction contracts and related subcontracts exceeding $100,000.)

Compliance with Air and Water Acts

During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 7401 et seq., the Clean Water Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner the following:

   A. A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the list of Violating Facilities issued by the Environmental Protection Agency (EPA).
   B. Agreement by the contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 7413) and Section 308 of the Clean Water Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
   C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, or EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.
   D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (A) through (D) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

3. SPECIAL CONDITIONS PERTAINING TO HAZARDS SAFETY STANDARDS AND ACCIDENT PREVENTION

   A. Lead-Based Paint Hazards

   (Applicable to contracts for construction or rehabilitation of residential structures.)

   The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35 and Revised Missouri Statutes 700.300 - 338. The Contractor and Subcontractor shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14 (f) thereof.

   B. Use of Explosives

   When the use of explosives is necessary for the prosecution of the work the Contractor shall observe all local, state, and Federal laws in purchasing and handling explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, waterlines, or there underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel, or rope mats.

   The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done close to such property. Any supervision or direction of use of explosives by the Engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be cause by such use.

C. Danger Signals and Safety Devices (Modify as required)
The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition sufficient red or warning lights at night, suitable barricades, and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

D. ENVIRONMENTAL REQUIREMENTS
Historic Preservation – Any excavation by Contractor that uncovers an historical or archaeological artifact or human remains shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO).

# APPENDIX 1, SUMMARY OF CIVIL RIGHTS LAWS, EXECUTIVE ORDERS, AND REGULATION

CDBG grantees must assure that all project activities will be administered in compliance with civil rights laws and regulations. The following are summaries of those parts of the civil rights laws and regulations that are applicable to CDBG activities.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Title VIII of the Civil Rights Act of 1968, as amended, provides that no person shall, on the basis of race, color, religion, sex, national origin, handicap, or familial status, be discriminated against in housing (and related facilities) provided with Federal assistance or lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal Government.

Section 109 of the Housing and Community Development (HCD) Act of 1974, as amended, provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.

Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that, to the greatest extent feasible, opportunities for training and employment shall be given to recipients of public housing and lower-income residents of the unit of local government or the metropolitan area (or non-metropolitan county) in which the project is located. Contract work in connection with such projects shall be awarded to business concerns which are owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project, employ Section 3 residents in full-time positions, or subcontract with businesses which provide economic opportunities to lower income persons.

Section 503 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination in contractor employment. All recipients of Federal funds must certify Affirmative Action for Handicapped Workers in all contracts issued:

1. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
4. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound

by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

6. The contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his/her handicap in benefiting from any program or activity receiving Federal financial assistance. All recipients must certify to compliance with all provisions of Section 504.

Age Discrimination Act of 1975 provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Executive Order 11063, as amended, directs all departments and agencies to take all action necessary and appropriate to prevent discrimination in housing and related facilities owned or operated by the Federal Government or provided with Federal financial assistance, and in the lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans insured or guaranteed by the Federal Government.

Executive Order 11246, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of Federal or Federally-assisted construction contracts in excess of $10,000. Grantees shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally-assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on Federal or Federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training and apprenticeship.

## **CONTRACT MANAGEMENT HELPFUL HINTS**

- Every contract needs a beginning and end.
- If your own attorney did not write or review the contract, then READ IT and UNDERSTAND IT before you sign it.
- Pay attention to cost additions and termination conditions in all contracts.
- The amount of CDBG assistance offered does not necessarily equate the value of the service.
- The applicability of a number of contract documents is determined by the value of the contract.
- Keep track of payments made in accordance with contract terms.
- **RURAL DEVELOPMENT/CDBG CONSTRUCTION CONTRACT DOCUMENTS:** To receive a copy of the joint USDA Rural Development and CDBG Construction Contract Documents, please contact your local USDA Rural Development Area office.

# CHAPTER VII

# LABOR STANDARDS

Labor standards administration involves the activities that take place primarily before construction begins. Administration sets the stage for the compliance activities that occur during the construction phase. Main components relating to HUD Labor Standards and Missouri Department of Labor Standards are presented in this chapter.

## FEDERAL STATUTORY PROVISIONS

Since 1931, Congress has extended the Davis-Bacon prevailing wage requirements to some 60 related Acts which provide federal assistance for construction through loans, grants, loan guarantees, and insurance. These Acts include by reference the requirements for payment of the prevailing wages in accordance with the Davis-Bacon Act; the Housing and Community Development Act of 1974 is one of the related Acts.

Davis-Bacon wage rates thereby apply to HUD programs because of prevailing wage requirements expressed in the HUD "Related Acts" such as the **U.S. Housing Act of 1937** and the **Housing and Community Development Act of 1974**, as amended. **The Housing and Community Development Act of 1974** provides that "All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act, as amended (40 USC 276a-276a-5):

The Missouri State CDBG Program utilizes HUD Handbook 1344.1 to measure applicability of federal statutory provisions to the State CDBG Program.

The **Davis-Bacon Act** (DBA) provides the advertised specifications for every contract in excess of $2,000 for the construction, alteration, and/or repair, which requires or involves the employment of laborers and/or mechanics, shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed. The **DBA** includes provisions that:

- Require the contractor and/or subcontractor to pay Davis-Bacon wages to all laborers and mechanics employed on the site of work regardless of any contractual relationship alleged to exist between the laborers and mechanics and the contractor or subcontractor;
- Define prevailing wages to include fringe benefits;
- Require that the scale of wages to be paid (i.e., the applicable Davis Bacon wage decision) be posted in a prominent and accessible place at the work site:
- Require the contractor and/or subcontractor to pay all mechanics and laborers not less often than once a week:
- Defines allowable deductions or rebates from wages earned by laborers and mechanics
- Authorizes withhold from contract to cover underpayment of wages
- Authorizes the termination of the contract where it is found that any laborer or mechanic is underpaid
- Authorizes the debarment of persons or firms found to have disregarded their obligations to employees and subcontractors.

**The Contract Work Hours and Safety Standards Act (CWHSSA).** The CWHSSA applies to both direct Federal contracts and to Federally–assisted contracts where those contracts require or involve the employment of laborers and mechanics and where Federal wage standards (e.g., Davis-Bacon or HUD-determined prevailing wage rates) are applicable. CWHSSA provides that all overtime hours (defined as hours worked in excess of 40 during any workweek on the CWHSSA-covered project site) must be compensated at a rate not less than one and one half times the regular basic rate of pay.

**The Copeland "Anti-Kickback" Act** provision makes it a criminal offense for a person to induce anyone employed in the construction, completion, or repair of any public building, public work, or building, or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which the employee is otherwise entitled. The Act also defines allowable payroll deductions, specifies methods of paying wages to covered employees, and requires the submission of weekly payrolls in conjunction with statements of compliance by all contractors in a format that meets the statutory requirements of 29 CFR Section 5.5.

**Fair Labor Standards Act (FLSA)** The FLSA governs such matters as Federal minimum wage rates and overtime. It requires employers to pay covered employees who are not otherwise exempt at least the federal minimum wage and overtime pay of one-and-one half times the regular rate of pay. These standards are generally applicable to any labor performed and may be pre-empted by other (often more stringent) Federal standards such as the DBRA prevailing wage requirements and CWHSSA overtime provisions. The authority to administer and enforce FLSA provisions resides solely with DOL.

## MISSOURI PREVAILING WAGE LAW

Contractors on projects subject to Davis-Bacon Act labor standards may also be subject to additional prevailing wage and overtime pay requirements under State and local laws.

- The Missouri Prevailing Wage Law is comparable to the Federal law in requiring payment of prevailing wages, as determined each year by the Missouri Division of Labor Standards, to all laborers and mechanics on public works construction projects for both straight time and overtime as defined by the authorizing State statute (RSMo Chapter 290). As determined in Missouri House Bill 1729; public works projects valued $75,000 and under are not subject to the Prevailing Wage Law and projects valued at $10,000 and below are not subject to a competitive bidding process. No project may be split up into smaller projects valued at less than $75,000 for the purpose of evading the requirement to pay a prevailing wage or public works contracting minimum wage.

- In addition, when the project is advertised for bid, a "Prevailing Wage Project Notification-Contractor Information Notification" (PW-2) must be filed with the Missouri Division of Labor Standards. Grantees are encouraged to review other related documents such as the Prevailing Wage Law Check-Off list, and the Affidavit of Compliance with the Prevailing Wage Law which contractors must submit to the Missouri Department of Labor prior to requesting final payment of public funds. These forms are provided electronically in conjunction with the Annual Wage Order through the **Missouri Division of Labor Standards Web site at www.labor.mo.gov/DLS/PrevailingWage/.**

# GRANT ADMINISTRATION DUTIES

*Prior to Construction Contract Award*:

1. Coordinate with the consulting engineer or architect in regard to CDBG bid documents and required HUD contractual provisions.
2. Request federal prevailing wage rates from State CDBG office prior to bid advertisement and also, update 10 days prior to bid opening.

*After Construction Contract Award*:

1. Coordinate with the consulting engineer or architect to schedule and conduct the Pre-Construction Conference. A sample format for labor standards-related topics to be covered is provided within this chapter. Contractor must determine and pay the higher wage rate between federal and state prevailing wage rates, included within the construction contract, for each specific classification utilized.
2. Submit the *Start of Construction Notification* form to DED. All information needed to complete this report should be available following the pre-construction meeting.
3. If ***anyone other than the Owner or Officers*** of the construction company will be signing the "Statement of Compliance" then a **Payroll Authorization Letter** is required to be submitted to CDBG with the **Start of Construction Notification**. (See sample Payroll Authorization Letter at end of the chapter)

*During Construction*:

1. The grantee or the designated local labor compliance officer, (most often, grant administrator is designated), must obtain original signed weekly payrolls (no pencil) from all general contractor(s) and subcontractor(s) accompanied by the statement of compliance (WH347) or Missouri (LS-57). Payrolls should be submitted within seven working days of the end date on the payroll form.
    a. First payrolls/payroll reviews for general and each subcontractor are required to be submitted to CDBG before first pay estimate submitted with Request for Funds. CDBG field representatives will make a determination relevant to projects, case by case, as to the level of technical assistance and monitoring necessary for project payrolls.
2. Review payrolls for compliance with current applicable Davis-Bacon wage decision and Missouri State Annual Wage Order. Contractor must determine and pay higher wage rate between federal and state prevailing wage rates.
    a. Payrolls are not to be submitted to CDBG without accompanying initial review documentation completed by the grant administrator **(Use *Certified Payroll Review Sheet*)**. First payrolls must be submitted to CDBG before a Request for Funds drawing down the construction activity line.
    b. Inclusion of all required certified payroll data - All data fields indicated on the acceptable payroll form are to be completed. The data, as indicated in WH-347, is required on all payrolls, regardless of payroll form used.
    c. Incorrect and Missing Classifications - The U. S. Department of Labor (DOL) does not recognize "foremen" and "health and safety" as work classifications. Use only authorized work classification; either those reflected on the wage decision or via submission of an additional classification/conformance request to the DOL.

        NOTE: The contractor's statement on the certification page that fringe benefits were paid into approved plans, funds, or programs must be accompanied by a breakdown of *bona fide* fringes expressed as an hourly equivalent amount for each employee or job classification. A guide for providing this documentation, along with the definition of fringe benefits allowed in *lieu* of cash payments, are included in this chapter.

i. **"Other Deductions": When reviewing submitted payrolls it is important to look at the type of deductions. If there are deductions for either miscellaneous or other categories, these categories must be explained on the Statement of Compliance form. If the deductions do not fall into the categories listed in the section "Clarification Concerning Payroll Deductions'" there should be a written, dated authorization letter signed by the employee stating what the deduction is for and the amount of the deduction. Only one employee authorization is needed for recurring (e.g. weekly) other deductions. Written employee authorization is not required for income tax and Social Security deductions.**

ii. If restitution is owed, the amount of the estimated restitution will be withheld from the Request for Funds and the remainder of the construction request will be processed. CDBG recognizes the contractual language stipulating when payment is due to contractor. For further details on restitution reporting requires see the **Labor Standards Violation** section in this chapter.

iii. As a standard objective, grantees should not submit requests to draw down CDBG construction funds until payroll reviews, (please utilize payroll review sheet in desk review) matching the time frame included in the contractors' pay invoices have been received and approved by the grant administrator in accordance with these procedures.

iv. Conduct on-site inspections to help confirm contractor compliance by confirming that posters explaining employee rights and the wage decisions are displayed on the job site, and verify through the employee interview process that correct prevailing wages are being paid.

## RECORD OF EMPLOYEE INTERVIEW

This form should be utilized by the local Labor Standards designee or another responsible party to obtain information from a representative number of employees and job classifications, thereby helping to achieve a reasonable assurance of compliance. Employee interviews should be conducted at least monthly for the prime contractor, and whenever subcontractors are at work on the site. Objectivity is enhanced when the local labor standards designee, not the contractor, selects the employees to be interviewed.

- The interview is to be conducted only with the individual employee.
- The interviewer should obtain the information necessary to complete items #1-12(b) on the *Record of Employee Interview*, and then observe the employee at work for a period of time before completing items #13-15(c).
- Information from the interview should then be compared to the findings on review of the weekly certified payrolls, indicated by completion of the "Payroll Examination" section of the form which is items #16-17(b).

Employee interviews may also be conducted by mail if necessary. This process should be limited to situations such as when subcontractors work on the job site for only a brief period of time, which might make personal interviews infeasible.

# APPLICABLE WAGE ORDER SELECTION

The decision on which type of wage rate schedule applies to a project can be complex, and often must be handled on a case-by-case basis. For example, the rules governing use of Heavy Construction (Heavy/Highway) or Building rates differ between the Federal and State interpretations, as reflected by the following information:

**FEDERAL**: All-Agency Memorandum No. 130, issued by the U.S. Department of Labor in 1978, defines Building construction as "the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies." If certain construction activities on a project can be classified in this manner, the key is in determining whether Building construction activities by definition represent more than an "incidental" portion of the contract. Twenty percent of project cost is commonly used as a rough guide in making this decision, hence the use of the term "80/20 rule."

An example would be construction or renovation to a water treatment plant that includes an enclosed structure to house equipment and controls. The grant administrator must first ask the question of whether the estimated cost of the building and related infrastructure (water and sewer, electricity, sidewalks, etc.) exceeds 20% in relation to project cost.

If the answer is "no", then it may be assumed that the predominance of project activities falls under the definition of Heavy construction and only the Heavy/Highway determination would be included in the project contract. Only one schedule is issued if construction items are "incidental" in function to the overall character of a project and there is not a substantial amount of construction in the second category.

If the answer is "yes", multiple schedules must be included in the contract with Heavy/Highway rates in force for heavy construction activities, and Building rates effective for the activities related to the sheltered enclosure and supporting infrastructure located within the "footprint" of the treatment plant site.

For contracts resulting from sealed bidding, the effective date for DBA WD Modifications is no less than 10 days prior to bid opening.

- 
- In addition, if a contract to which a general WD has been applied is not awarded within 90 days after bid opening, any modification published prior to contract award is effective unless an extension is obtained from CDBG. Modifications published less than 10 days before bid opening are not applicable if there is not sufficient time to notify bidders. Project WD are locked-in on the date the contract is executed.
- 
- How to acquire an extension on time for a federal wage determination.
    - 
    - If it is still within the 90 day period between bid opening and award and the grantee foresees that the award will not happen within that time period. The grantee can send an extension request letter to CDBG (must be on their letterhead) that is supported by a statement of the factual circumstances and finding that the extension is necessary and proper in the public interest to prevent injustice or undue hardship.

**FEDERAL RESIDENTIAL:** As explained in HUD's Handbook 1344.1 Rev. 2, appendix II-6 Factors of Labor Standards Applicability. Davis-Bacon applies to the rehabilitation of residential property only if the property contains 8 or more units. Residential property that contains 7 or fewer units is exempt. Although the statute refers to the rehabilitation of the residential property, this exemption has been interpreted to include the new construction of residential property containing 7 or fewer units. Typically, single-family homeowner properties are excluded under this exemption.

However, "property" is not limited to specific building. Property is defined as one or more buildings on an undivided lot or on contiguous lots or parcels, which are commonly–owned and operated as on rental, cooperative or condominium project. Examples of 8 + unit properties may include:

5 townhouse buildings side-by-side which consist of 2 units each.
3 apartment buildings each consisting of 5 units and located on one tract of land.
8 single-family (not homeowner) houses located on contiguous lots.

**STATE**: According to 8 CSR 30-3.040 of the implementing rules for the Division of Labor Standards, the summarized definition of:

> **Building construction** includes "building structures, including modification, additions or repairs, or both, to be used for shelter, protection, comfort, convenience, entertainment or recreation, or for protection of people or equipment." **However, this also includes excavation work for the building; sidewalks, driveways, and parking lots in immediate proximity that provides direct access to the building; extension of water, sewer, and other utilities by work inside a building and to the curb line; and work on water and wastewater treatment plants within the fence line (emphasis added).**
>
> **Heavy construction** includes work in connection with roads, streets, parkways, alleys and highways including, but not limited to, grading, paving, curbing, signs, fences, guard rails, bridges, lighting, retaining walls and landscaping. Sidewalks when poured incidental to a street or road project. Main and side sewers and work in connection with telephone, electrical, water, oil, gas or fuel lines, or any other utility or communication lines **from the curb line**.
>
> *AUTHORITY: section 290.240, RSMo 1994.*Original rule filed Aug. 24, 1990, effective April 29, 1991. Amended: Filed July 17, 1995, effective Jan. 30, 1996.*

The Annual Wage Order provides only Building and Heavy Construction schedules for each county. **Grantees must determine the type of work being done, and where the work is taking place in relation to the overall scope of the project, to know which schedule to use.**

When using state building rates relevant to working inside the fence line or inside the curb line, the contractor will pay the higher of the two between the state building rate and the federal heavy rate. Please refer to the federal section above for relevancy of federal wage schedules. Note that the Heavy construction page does not include certain classifications (common examples include Ironworker and Bricklayers), which requires reference to the Building construction page for that specific trade regardless of the actual nature of the project.

- Regardless of the wage schedule(s) that are considered in force for a specific project, contractors must pay the higher applicable Federal or State prevailing wage rate for the applicable classification to each employee. To assist in determining if the appropriate classification has been reported for the type of work being performed, grantees are encouraged to become familiar with the publication, "Occupational Titles of Work Descriptions" (8 CSR 30-3.060) issued by the state Division of Labor Standards.
- State wage determinations are generally "locked in" at the time of bid opening, and are then to remain in force for the life of the project.

# CLARIFICATION CONCERNING PAYROLL DEDUCTIONS

*If the deductions do not fall into the categories listed below, there should be a **written, dated authorization letter signed by the employee** stating what the deduction is for and the amount of the deduction.*

The following is quoted from 29 CFR 3.5

Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: *Provided, however,* That the following standards are met:

1. The deduction is not otherwise prohibited by law;
2. It is either:
    a. Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or
    b. Provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees.

The following information can be found on page 2-11 of the Davis-Bacon Labor Standards: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects:

**Deductions** - Show the individual amounts of any deductions from the gross earnings.

1. "Other" deductions should be identified (for example, Savings Account or Loan Repayment). Any voluntary deduction (that is, not required by law or by an order of a proper authority) must be authorized in writing and dated by the employee or provided for in a collective bargaining (union) agreement.
    a. A written letter dated and signed by the employee is required and must accompany the first payroll on which the 'other' deduction appears.
    b. Only one employee authorization is needed for recurring (e.g., weekly) other deductions. Written employee authorization is not required for income tax and Social Security deductions.

# REPORTING ADDITIONAL WORK CLASSIFICATIONS

Additional classification requests should be straightforward and simple. The request should represent what the employer (contractor or subcontractor) wants to pay workers performing a particular set of duties (Typically found on the State Wage Rates). The proposed additional classification and wage rate needs to satisfy only three criteria set forth in Department of Labor (DOL) regulations:

1. That the work to be performed by the additional classification is not performed by a classification already on the applicable wage decision;
2. That the classification is used by the construction industry in the area of the project; and
3. That the proposed wage rate and any fringe benefits bear a reasonable resemblance to the rates on the wage decision.

If these criteria are met, the request should be approved by the contracting officer (e.g., HUD Labor Standards and Enforcement field staff) and forwarded to the DOL for final approval.

**Are Additional Wage Rates Supposed to Be Prevailing?**

Additional classifications and wage rates are not expected to be "prevailing" in the sense that DOL wage decisions represent "prevailing rates" which are established in accordance with standard procedures and

definitions. Additional classifications are meant to supplement a wage decision for the purpose of one discreet project. Additional classifications have very limited scope and duration and, therefore, are not held to the same standard as a wage decision.
You should not need to do an extensive review or collect a lot of supporting documentation, like wage payment quotes from 3 employers. If the request meets the criteria and no objections have been presented, a simple approval and referral to DOL is all that's needed.

## FORCE ACCOUNT LABOR

Laborers and mechanics employed directly by the grantee are known as "Force Account" employees and are not subject to prevailing wage requirements. Government-program workers and other temporary, but *bona fide* employees of the grantee, who might perform work in covered trades on a public works project, are also not subject to prevailing wage requirements.

## OWNERS/OPERATORS

HUD Handbook 1344.1 Chapter 4-2(B) 1; persons who perform work of laborers or mechanics and who represent themselves to be owner of business, sole proprietors, or self-employed are **not** exempt from prevailing wage requirements. These labors and mechanics are "employed" and are entitled to the prevailing wage for the type of work they perform and must report on CPRs for their craft, hours of work, and wages paid. (See Labor Relations Letter LR-96-01)

LR-96-01 establishes a HUD administrative policy that "labor standards administration and enforcement, may not accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. Such mechanics must instead be carried on the certified payroll of the contractor or subcontractor (the "responsible employer") for whom they are working and with whom they have executed a "contract" for services."

The Missouri Division of Labor Standards states that "shareholders of a corporate contractor" must be listed on the payrolls and paid prevailing wage rates by the contractor if the shareholder is performing public works construction. According to a Missouri Southern District Court of Appeals decision, anyone performing construction work on a public works project (not only employees) is covered by the Missouri Prevailing Wage Law; "workmen" on a public works project, regardless of employee or independent contractor status must therefore receive the State prevailing wage.

## 1099 WORKERS

If the 1099 or independent workers do not meet the State of Missouri and/or IRS standards for categorizing as such, this office will not accept workers paid as 1099 workers and/or independent contractors.
/labor.mo.gov/sites/default/files/DES/Forms/M-INF-310-AI.pdf
http://labor.mo.gov/offthebooks

## SITE OF WORK

Site of work is limited to the physical place or places where the construction called for in the contract/scope of work will remain when the work has been completed *and* any other site where a significant portion of the building or work is constructed, provided that such site(s) is established specifically for the performance of the contract or project. HUD Handbook 1344.1 Rev 2 Chapter 11-25 (See also *DOL Field Operations Handbook, 15b04.*)

**Situation Davis Bacon would apply**: Except as provided in paragraph 29 CFR 5.2(l) (3), batch plants, borrow pits, job headquarters, tool yards, etc., are part of the site of work provided they are dedicated ***exclusively*** or nearly so to the contract or project, and are ***adjacent or virtually adjacent*** to the site of the work as defined in 29 CFR 5.2(l) (1).

**Situation Davis Bacon would not apply:** Excluded in the site of the work are permanent home offices, branch plant establishments, fabrication plants, and tool yards, etc. of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular federal or federally-assisted contract or project. Also excluded from the site of the work are fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project *before opening of bids* and not on the site of the work as stated in 29 CFR 5.2(l) (1), even where such operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

## CALCULATING OVERTIME

***State***: requires overtime based on the employee working daily hours in excess of the maximum 10 hours daily and 40 hours worked during the weekly reporting period. If overtime is incurred daily and does not exceed 40 hours for the weekly payroll only the State determination would be used to figure the required compensation that is time and one-half of the basic rate plus fringe benefits at the straight time rate.

***Federal***: if the employee worked in excess of 40 hours in a workweek the CWHSSA rules also apply. Overtime must be figured at time and one-half of the higher basic pay rate plus the corresponding straight time fringe benefit rate. In this event, the applicable overtime rate applied is the higher of the federal and state wage rates for the particular classification. Given the potential complexity of this situation, grantees are encouraged to contact your designated Compliance Specialist.

NOTE: The same principle will determine overtime pay when the State determination reflects the higher basic rate for an occupational classification.

## SPLIT CLASSIFICATION AND OVERTIME

State Overtime Determination: If an employee has a split work classification and overtime is potential met. The grantee will need to clarify with the contractor/subcontract which classification the employee was working last to determine which rate to use.

For example: If the employee is working as an ironworker in the morning but a labor in the afternoon and they work an 11 hour day which puts that employee over 10 hours in a standard day. The laborer rate would be used to determine the overtime requirement.

## VERIFYING APPRENTICE

Contractors on federally-funded construction projects have the opportunity to utilize apprentices if each person is employed and individually registered in a *bona fide* apprenticeship program registered with the U.S. Department of Labor, Office of Apprenticeship. The State of Missouri Division of Labor Standards also recognizes this Federal entity as the official State apprenticeship agency.

Before the contracting agency accepts workers classified as apprentices, the agency is required to obtain:

1. Apprentice registration form – US DOL-Office of Apprenticeship Certification; **(Exhibit 1 is an example of what this form may look like).**
2. DOL-approved apprenticeship standards/ apprenticeship program standards (pages) reflecting name of program; ratio of apprentice to journeyman; percentages of pay based on apprentice pay level; fringe benefits payments; and signatory page. **(Exhibit 2 is a sample of what this page may look like)**

Anytime, there are apprentices out-of-ratios, the contracting agency is required to obtain restitution. Specifically, those apprentices performing work on the site of the construction who are in excess of the ratio permitted under Missouri HB 1729 program shall be paid not less than the applicable wage rate on the wage

determination for the class or type of work actually performed. Reference 8 CSR 30-3.030 subsection 2 of Missouri Department of Labor and Industrial Relations.

**Coverage of apprentices and trainees**
Apprentices and trainees are laborers and mechanics, however, they are not listed on Davis-Bacon wage determinations. They are permitted to work on DBA/DBRA covered projects only under very controlled circumstances, as follows.

1. The apprentice or trainee is **individually registered** in an **approved** apprenticeship or training program.
    a. The **apprenticeship program** has been approved by the ETA/OA or by a state apprenticeship agency recognized by the ETA/OA.
    b. The registration requirements do not apply to apprentices and trainees employed on highway construction projects funded by the **Federal-Aid Highway Act** and enrolled in programs certified by the U.S. Department of Transportation.
2. Apprentices/trainees must each be paid the percentage (%) specified in the approved apprenticeship or trainee program for their level of progression calculated as a percent of the basic hourly rate required by the applicable wage determination for the applicable classification.
3. The Contractor may employ one "apprentice" or "entry-level" worker for each journeyman hired and pay them 50% of the pay, **including fringe benefits**, of a journeyman in their same occupational title based on Missouri House Bill 1729 which took effect on August 28, 2018.
    a. Compliance with the applicable ratio is determined on a daily, not weekly basis.
    b. The use of “fraction thereof” in computing apprenticeship ratios is not permitted unless specified in the approved apprenticeship program.
4. **Fringe benefits** should be paid to apprentices/trainees in accordance with the provisions of the apprenticeship/trainee program. If the program is silent on the payment of fringes, the apprentices/trainees are to receive the full amount of the fringe benefits stipulated on the applicable wage decision (for the craft in which an individual apprentice/trainee is employed) unless it is determined that a different practice prevails for such apprentices/trainees.
5. When the contractor has exceeded the allowable ratio of apprentices/trainees in a classification, only the individuals who were employed before the applicable ratio was exceeded may be paid below the wage determination rate(s) for the work performed. Individuals whose employment on the site exceeds the allowable ratio must be paid the full wage determination rate for the classification of work performed.

## ***Exhibit 1***

U.S. Department of Labor, Office of Apprenticeship

**U.S DEPARTMENT OF LABOR - OFFICE OF APPRENTICESHIP**
**APPRENTICESHIP CERTIFICATION**

CONNIE ZIEBARTH
DIVISION OF LABOR STANDARDS
JEFFERSON CITY, MO 65101

**The following individuals are apprentices registered with the U.S. Department of Labor, Office of Apprenticeship, under the sponsorship of Program Number MO006136643:**

**Eggs in a Basket Electrical Contracting**
**1234 Main St.**
**La La Land, MO 68888**

| APPRENTICE ID | SSN | APPRENTICE NAME | OCCUPATION | DATE APPRENTICESHIP BEGAN | DATE CANCELLED (if applicable) | DATE COMPLETED (if applicable) |
|---|---|---|---|---|---|---|
| MO16N069900 | *****9105 | **Easter Bunny** | ELECTRICIAN | 08/24/2016 | | |

**CERTIFIED BY:** **DATE ISSUED:**
Michael D. Smith 11/16/2016
MICHAEL SMITH (MO006)
Apprenticeship Training Representative

********VOID 90 DAYS FROM ISSUE DATE********

## ***Exhibit 2***

Below is an example of the "typical" language in an Apprenticeship Standard. The language should identify the ratio between Journeyman and apprentice.

**SECTION VII - RATIO OF APPRENTICES TO JOURNEYWORKERS – Title 29 CFR 29.5(b)(7)**

A numeric ratio of apprentices to journeyworkers consistent with proper supervision, training, safety, and continuity of employment throughout the apprenticeship, the ratio of apprentices to journeyworkers will be **ONE** apprentice to **ONE** journeyworkers.

Below is an example of the section in the Apprenticeship Standard that indicates different stages of apprenticeship and identifies the percent an apprentice should be paid of journeymen wages. The contractor will be need to indicate what level the apprentice is at.

Wage Schedule

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| **Period** | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 | 1000 |
| | 43.00% | 48.00% | 53.00% | 58.00% | 63.00% | 68.00% | 73.00% | 78.00% | 83.00% | 88.00% |

## DEMOLITION AND DAVIS BACON APPLICABILITY

Demolition, alone, without plans for reuse of the property, is exempt from Davis Bacon, and is not considered a construction activity. However, the United States Department of Labor, after substantial review, has determined (Memorandum No. 153) that the **removal of asbestos or paint** from public buildings or public works constitutes building alteration within the statutory language of DBA because asbestos or paint removal clearly alters those buildings or works, regardless of whether subsequent reinsulating or repainting is being considered. Accordingly, any Federal contract in excess of $2,000 that calls for asbestos or paint removal is subject to DBA and must include its stipulations and the applicable wage decision.

In the event that the demolition project includes both residential structures and commercial structures, there is to be a **separate asbestos removal contract** for the total residential structures and the total commercial structures. If the asbestos removal contract for the total residential structures is in excess of $2,000 and there are 8 or more contiguous units, Davis Bacon provisions apply. In regard to an asbestos removal contract for a commercial structure in excess of $2,000, Davis Bacon provisions apply.

## INSTALLATION OF EQUIPMENT AND DAVIS BACON APPLICABILITY

**Does Davis Bacon apply to the installation of equipment**? CDBG's reply is 'yes' and 'no'. Our position is if it is a part of an ongoing contract with a general contractor and/or subcontractor to install a piece of equipment then prevailing wage applies. For example if the general contractor bids out a community center and part of that bid is to install a new HV/AC unit (heating and air-conditioning), that installation of the new unit is subject to Davis Bacon/ State Prevailing Wage because it is part of the overall contract agreement not just singled out as one isolated component. Note, it is not allowed to just isolate items such as the example above to avoid DBRA.

If CDBG funds are only purchasing a piece of equipment and nothing else Davis Bacon and/or State Prevailing Wage will not apply, ***unless*** if part of the equipment purchase consist of installation cost but only if those costs are more than incidental amount of construction activities.

Incidental amount of construction activities is defined by HUD Handbook 13441 chapter 11, section 11-29, "Supply and installation contracts " Installation work performed in conjunction with an equipment supply contract is subject to DBRA wage requirements where it involves more than an incidental amount of construction activity. Whether installation work involves more than an incidental amount of construction activity depends on the specific circumstances of each particular case.

Factors requiring consideration include the nature of the prime contract work; the type of work performed by the employees installing the equipment (e.g., the techniques, materials and equipment used and the skills required for its performance); the extent to which structural modifications to buildings are needed to accommodate the equipment (e.g., widening entrances, relocating walls, installing wiring); the cost of the installation work, either in terms of absolute amount or in relation to the cost of the equipment and the total project cost. https://www.hud.gov/sites/documents/13441C11SECH.PDF

Missouri CDBG program defines "incidental construction activities" threshold for equipment and installation as actives totaling equal to or less than (12%) of the overall equipment and installation cost (equipment cannot be broken out of a larger construction contract just to avoid prevailing wage).

To put this in perspective, if a project is only for equipment and there is no major changes to the building in order to install that piece of equipment then Davis Bacon will not apply, ***unless*** the installation cost for that piece of equipment is over 12% of the total cost of said equipment.

- For example, if the equipment cost $1,000,000.00 then for DB to apply the install cost would have to be over $120,000 (12%). At that point it would be safe to assume major alterations to the build were needed to install that piece of equipment and DB would apply.

## ELECTRONIC SIGNATURE ON CERTIFIED PAYROLLS

**Will CDBG accept electronically signed statements of compliance for certified payrolls?**

The simple answer is ***yes***; according to DOL and HUD, they permit the use of electronic submittals and electronic signatures for the contractor's weekly payroll and the "Statement of Compliance" submittals.

However, there are stipulations on what counts as an electronic signature and it might be easier to explain what ***does not count*** as an electronic signature.

As defined by U.S. DOL Prevailing Wage Resource Book the following items do not satisfy the requirement that a "Statement of Compliance" be "signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract." Reference: https://www.dol.gov/whd/recovery/pwrb/Tab9.pdf ; page 28

1. Photocopies or "pdf" copies of the "Statement of Compliance,"
2. faxed "Statements of Compliance," or
3. an electronically scanned "Statement of Compliance" e-mailed to an agency

If not submitting payrolls through an accepted electronic payroll system **the Grantee** will need originally signed "statement of compliance" for payrolls in their files. **Your field rep does not need the originals in their procession; we examine copies throughout the project.**

**What is allowed?**

The Department of Labor allows the filing of certified payrolls via electronic payroll systems that meet certain requirements.

1. The main requirement is that the contractor submitting the payroll uses an official digital signature, typically a unique PIN number and password that verifies the identity of the contractor.
2. Certified electronic payroll systems allow for electronic submissions of both payroll documents and certification statements.
3. A digital signature is only available through an electronic payroll system.
    a. **If *they complete the WH-347 on line, it must be printed out and hand signed. Once the WH-347 is in paper form, it remains in paper form, and the original paper certified payroll must be sent to the Grantee.***

According to U.S. DOL Prevailing Wage Resource Book, they advise that:

1. Individual contracting agencies determine any such electronic submission options because contractors submit the information directly to each contracting agency, not to the DOL.

2. The use of electronic signatures to satisfy requirements of the Copeland Act and its regulations by the use of an "agency approved limited access Web-based portal" should include the legally valid electronic signature of the "contractor or subcontractor or his or her agent who pays or supervises the

payment of the persons employed under the contract." *See* 73 *FR* 77510
https://www.gpo.gov/fdsys/pkg/FR-2008-12-19/pdf/FR-2008-12-19.pdf

a. Web-based certified payroll compliance solutions exist and some agencies and contractors have set up systems to comply electronically.
b. Under pertinent provisions of the Copeland Act and the Government Paperwork Elimination Act (Pub. L. 105-277, Stat 2681, codified at 44 U.S.C. § 3504, note), WHD affirms that the use of electronic signatures is sufficient for compliance purposes under the Copeland Act.
c. WHD encourages all government agencies to permit contractors to submit certified payrolls electronically or through allowing access to appropriate agency approved limited access Web-based portals providing the required information and certification.
d. Web-based systems for the submission of electronic submission of certified payrolls often include compliance monitoring tools and can improve efficiency in the review of data reported, as well as reducing recordkeeping burdens and storage expenses.

HUD Program Offices for Davis Bacon and Labor Standards states, "*HUD client agencies, grantees and other program participants are welcome to engage electronic payroll services from vendors that offer products meeting Davis-Bacon and Copeland Act requirements"*.
Reference: *https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrmk14*

**What does that mean for CDBG field reps?**

The Grantee and field reps can accept electronic signatures on the payroll compliance sheet but it must be from a program that is approved by CDBG.

## LABOR STANDARDS VIOLATIONS

Non-compliance with Federal and State labor standards requirements are usually discovered through the process of investigating worker complaints, monitoring payroll records, conducting employee interviews, or similar efforts. When labor standards violations are suspected, there are standard procedures to follow depending on the nature of the offense:

1. If the total amount of the underpayment of Federal prevailing wages is over $1,000, or there is reason to believe that the violations are aggravated or willful, the grantee must furnish a report of investigation to DED. We will forward this information to the HUD area office, which will take appropriate actions and supply a report to the U.S. Department of Labor if necessary.

2. If the underpayment is $1,000 or less, and there is no reason to believe that the violations are aggravated or willful, the grantee's responsibility is to make certain that full restitution has been paid. Verification of compliance must include a certified correction payroll reflecting the amount of total restitution and allowable deductions, if any. Employers (contractors, subcontractors, etc.) that owe wage restitution to their employees are required to pay the restitution directly to the employees and report the restitution paid on a certified correction payroll. A correction payroll differs slightly from regular certified payroll reports (CPRs).

For example, the correction CPR should indicate:

1) the time period for adjustment (6/5/16 thru 8/14/16, or CPRs #1 thru #10);
2) the names of the affected employees;
3) work classifications;
4) the total number of hours for adjustment (daily hours are usually not relevant);
5) the adjustment wage rate (hourly wage required less hourly wage paid);
6) the gross amount of restitution paid;
7) Deductions and net restitution paid. Most importantly, the employer will sign the "Statement of Compliance" certifying to the payments.

3. If the violation specifically involves the federal overtime provisions of the Contract Work Hours and Safety Standards Act (CWHSSA), liquidated damages of $10 for each day the employee was eligible but not paid overtime must also be assessed. Contact our office to discuss whether further recommendations should be made to the HUD area office or USDOL.
4. Violations of the provisions of the Missouri Prevailing Wage Law should be reported to the Division of Labor Standards following the procedures established by that agency. Contact the Missouri Division of Labor Standards at 573/751-3403, or access their Web site at www.labor.mo.gov/DLS/PrevailingWage/.

## LABOR STANDARDS FILE RECORDS

A labor standards compliance file should be established for each construction contract in order to maintain records of the following:

- Pre-Construction Conference Documentation
- Copies of all forms submitted (Request for Wage Determination, Request for Additional Classification and Rate using HUD form 4230A, Start of Construction Notice, etc.)
- Project correspondence (including written records of telephone and personal contacts) for all Labor Standards-related activity.
- Executed contract documents, including contractor and subcontractor certifications and final (enforceable) Federal and State prevailing wage determinations.
- Weekly certified payrolls (obtain record of contractor's fringe benefit plan if applicable, etc.)
- Meeting minutes, record of attendees, etc. from the preconstruction conference.
- Documentation of all employee interviews conducted.

# PRE-CONSTRUCTION REPORT FORMAT
# (SAMPLE)

Project Name:_____ Project # _____

Location:_____

Description of Work to be Performed:_____

Contractor: _____ Total Contract Amount: $ _____

Meeting Date: _____ / _____ / _____ Location: _____

## Items covered During Pre-Construction Conference

| | | | |
|---|---|---|---|
| ☐ 1 | Attach a List of Meeting Participant's Names, Associations, Titles, and Contact Information | ☐ 15 | Procedures to be Adopted by Contractor in Accounting for and Storing Such Materials |
| ☐ 2 | Responsibilities of Consulting Engineer | ☐ 16 | Equipment to be Used by Contactor |
| ☐ 3 | Responsibilities of City/County Governing Body | ☐ 17 | Change Orders |
| ☐ 4 | Responsibilities of CDBG Grant Administrator | ☐ 18 | Staking of Work, Placement of Project Signs and Posters |
| ☐ 5 | Responsibilities of Any Other Agency Contributing to the Project | ☐ 19 | Project Inspection and Employee Wage Interviews. |
| ☐ 6 | Rights-of-Way and Easements, Coordination with RR, Hwy Department and Other Organizations | ☐ 20 | If Applicable, Safety and Sanitary Regulations |
| ☐ 7 | Responsibilities of Contractor, Sub-Contractors **(Subs must be Cleared by CDBG before Stepping on Jobsite)** | ☐ 21 | Labor Requirements, State and Local Requirements, Other Requirements if Applicable |
| ☐ 8 | General Discussion of Contract , Notice to Proceed, Completion Time for Contract,& Liquidated Damages | ☐ 22 | Contractor to Submit Weekly Payrolls, Reporting Requirements, Equal Employment Provisions of Contract, and Other Sanctions. |
| ☐ 9 | Contractor's Schedule and Requests for Extension of Contract Time if Needed | ☐ 23 | Submission of Apprenticeship documentation (if applicable) |
| ☐ 10 | Procedures for Making Payments and Time Frame, Owner Must Inspect and Approve Pay Estimates | ☐ 24 | Federal Prevailing Wage Determination (Heavy/Building, or Both) |
| ☐ 11 | Guarantee on Completed Work; Delay in Payment if Payrolls Aren't Submitted In Timely Fashion. | ☐ 25 | Applicability of dual Federal and State Prevailing Wage Rates on CDBG-Funded Projects. |
| ☐ 12 | Other Requirements of the Contract and Specifications which Deserve Special Discussions by All Parties | ☐ 26 | Contractor informed of the Requirement to Pay the Higher of the State or Federal Wage Rate Per Classification on CDBG Funded Projects |
| ☐ 13 | Contractor's Plans for Delivering Materials to Project Site | ☐ 27 | Final Acceptance of Work and Handling Disputes |
| ☐ 14 | Status of Materials Furnished by City/County | ☐ 28 | |

# FRINGE BENEFITS
# CODE OF FEDERAL REGULATIONS
# TITLE 29, SECTION 5.20-5.31

The 1964 amendments to the Davis-Bacon Act require that the prevailing wage determined for

Federal and Federally assisted construction includes (among other things) the following:

1. The basic hourly rate of pay; and
2. The amount contributed by the contractor/subcontractor for certain fringe benefits (or the cost to the contractor/subcontractor for such benefits).

Therefore, if the wage determination lists fringe benefits, the contractor/subcontractor must pay to the employee in cash or fringe benefits an amount that equals the total of the basic hourly rate and fringe appearing on the wage determination. Any combination of cash payments and fringes is allowed, provided that the part you provide in benefits is:

A. Explained to all employees in writing
B. Administered through a third party or through an actuarially sound, enforceable, unfunded commitment. (The Secretary of Labor may require unfunded plans to be held in a separate, special account.)
C. If the employee works overtime, the premium must be computed on the basic hourly rate shown on the wage determination, even if the employer pays less than this amount in cash because of increased fringes.

In other words, if you take a credit on the basic hourly rate because you pay more in fringes than required by the wage determination, **you must revert back to the rate in the wage determination when computing and paying for overtime work**.

A fringe benefit is considered an employment benefit (such as a pension, paid holidays, health insurance, etc.) granted by an employer that involves a monetary cost without affecting the basic wage rates.
The Statutory provisions of fringe benefits under the Davis-Bacon Act are contained in Part 5.23. The fringe benefits provisions of the 1964 amendments to the Davis-Bacon Act include the following:

3. The rate of contribution is irrevocably made by a contractor/subcontractor to a trustee or to a third person pursuant to a plan, fund, or program. The “third person” must be one who is not affiliated with the contractor or subcontractor.
   A. The trustee must assume the usual fiduciary responsibilities imposed upon trustees by applicable law. The trust or fund must be set up in such a way that in no event will the contractor/subcontractor be able to recapture any of the contributions paid in or in any way divert the funds to his own use or benefit.
   B. “Plan, fund, or program” is merely intended to recognize the various types of arrangements commonly used to provide fringe benefits through employer contributions. The contribution for fringe benefits must be made pursuant to a plan, fund, or program (Section 1(b)(2)(A) of the Act).

4. The rate of costs to the contractor/subcontractor, which may be reasonably anticipated in providing benefits to laborers and mechanics, pursuant to an enforceable commitment to carry

out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected.

The act lists all types of fringe benefits that Congress considered common in the construction industry as a whole. The following fringe benefits include where the contractor/subcontractor pays all or part of the amount for:

1. Medical or Hospital care
2. Pension on retirement or death
3. Compensation for injuries or illness resulting from occupational activity
4. Insurance to provide for any of the foregoing
5. Unemployment benefits
6. Life Insurance
7. Disability or Sickness Insurance
8. Accident Insurance
9. Vacation and Holiday pay
10. Defrayment of costs of Apprenticeship or other similar programs
11. Other *bona fide* fringe benefits

**Note**: "Other *bona fide* fringe benefits" is the so-called "open-end" provision, included so that new fringe benefits may be recognized as they become prevailing in the construction industry.

**The Act excludes fringe benefits that a contractor/subcontractor is required to provide under other Federal, State, or local law**. No credit may be taken under the Act for the payments made for such benefits (e.g., payments for Workmen's Compensation Insurance under either a compulsory or elective State statute are not considered payments for fringe benefits under the Act). **Also, payments made for travel, subsistence, or to industry promotion funds are not normally payments for fringe benefits under the Act.**

Only the amount of contributions or costs for fringe benefits, which meet the requirements of the Act, will be considered.

The rate of contribution or cost is ordinarily an hourly rate and will be reflected this way in the wage determination. When fringe benefits are prevailing for various classes of laborers and mechanics in the area of proposed construction, such benefits are includable in any Davis-Bacon Wage Determination. Wage determinations will not contain such benefits when such benefits are not prevailing in the area of construction.

A contractor/subcontractor performing work subject to Davis-Bacon may discharge his minimum wage obligations for the payment of both straight time wages and fringe benefits by paying in cash, making payments, or incurring costs for *"bona fide"* fringe benefits of the types listed in the applicable wage determination or otherwise found to be prevailing by the Secretary of Labor, or by a combination thereof.

Sometimes the contribution or cost for certain fringe benefits may be expressed in a formula or method of payment other than an hourly rate. In such cases the Secretary, at his discretion, may express in the wage determination that rate of contribution or cost used in the formula or method, or may convert it to an hourly rate of pay whenever it is found that such action would facilitate the administration of the Act.

**Unfunded Plans** (Part 5.28): There are no types of fringe benefits eligible for consideration as a so-called "unfunded plan" unless:

1. It could be reasonably anticipated to provide benefits described in the Act;
2. It represents a commitment that can be legally enforced;
3. It is carried out under a financially responsible plan or program; and
4. The plan or program providing the benefits has been communicated in writing to the laborers and mechanics affected.

The cost to a contractor/subcontractor, which may be reasonably anticipated in providing benefits of the types described in the Act, pursuant to an enforceable commitment to carry out a financially responsible plan or program, are considered fringe benefits within the meaning of the Act (Section 1(b)(2)(B) of the Act).

Legislative history suggests that these provisions were intended to permit the consideration of fringe benefits meeting these requirements, among others, and which are provided from general assets of a contractor/subcontractor.

It is in this manner that the Act provides for the consideration of "unfunded plans or programs" in finding prevailing wages and in ascertaining compliance with the Act.

There is a protection, however, against the use of this provision as a means of avoiding the Act's requirements. The words "reasonably anticipated" are intended to require that any unfunded plan or program be able to withstand a test that can be described as one of actuarial soundness. As in the case of other fringe benefits payable under the Act, an unfunded plan must be "*bona fide*" and not a mere simulation or sham for avoiding compliance with the Act.

## Davis Bacon & Related Acts (DBRA) Checklist

| Preparation | | | |
|---|---|---|---|
| **Checklist Items** | **Yes** | **No** | **Comments** |
| Have all Contractors (Prime & Sub(s)) had their eligibility verified? | | | If no, go to www.sam.gov to verify and print results for file |
| Do you have a list showing all Contractors and Subs on file? | | | |
| Have Prime and Sub contractors verified the work eligibility of each worker? | | | E-verify or I-9 paper based verification must be performed and documented. Work eligibility should be on file. |
| Is there a construction start date letter on file for the Prime and Subcontractor? | | | |
| Have you received the first set of payrolls within 7 to 10 days of the contract start date? | | | This applies to contractors and sub-contracts |
| If the Prime contractor had Subs- did the Prime contractor review the Sub payrolls before submitting them to you? | | | |
| Are payrolls for ALL contractors received weekly and within 7 days from the completed work week? | | | |
| **Have payrolls been reviewed to ensure the following:** | | | |
| **Checklist Items** | **Yes** | **No** | **Comments** |
| The top portion of the WH347 is totally completed | | | |
| Are there no work week payrolls? | | | If there are no work week payrolls you will need a signed statement from the contractor of those dates not worked. |
| Are payrolls sequentially numbered? | | | |
| Is the work ending week date block inclusive of dates in column 4? | | | |
| Is there a name for each worker (on jobsite) transcribed in column 1? | | | |
| Is there a 4-digit ID number for each worker? | | | |
| Is the work ending week date block inclusive of dates in column 4? | | | |
| Is there a name for each worker (on jobsite) transcribed in column 1? | | | |
| Is there a 4-digit ID number for each worker? | | | |
| Does the work classification in column 2 match a classification on the wage decision? | | | If employee is not classified as one of the approved classifications found on the wage decision they will need to change/conform to a trade on the wage decision. If it is not possible to change or conform the trade, then you must submit the HUD 4230A form (in word format) to the Department in order to request the needed classification for the job. |
| **Checklist Items** | **Yes** | **No** | **Comments** |
| Does column 4 reflect correct pay and dates worked for each worker? | | | |
| Does column 4 reflect the correct standard (s) hours and overtime (o) hours for each worker for this job site? | | | NOTE: Overtime for prevailing wage jobs are based on “where” the worker hit the 41st hour. Overtime for the prevailing wage jobs is paid for 40+ hours on the prevailing wage job site. |

| | | | |
|---|---|---|---|
| Are total hours calculated and entered in column 5? | | | |
| Are the workers hourly rates of pay entered in column 6? | | | Check to see if the company pays fringe benefits. If they do- has the company provided an itemized fringe list for each worker that shows the hourly value of each fringe benefit per worker and have they provided the details of who provides any fringe benefits that are paid into plans? |
| Is the rate of pay equal to and/or in excess of the total prevailing wage? | | | |
| Does the rate of pay X hours = total in the top half of column 7? | | | |
| Did worker work other jobs during this pay period? | | | If yes, is the total gross amount entered in the bottom half of column 7 |
| **Deductions**- are there "other" deductions reflected on the sheet?<br><br>If yes, has the company submitted written descriptions of the deductions, with letters signed and dated by the worker and/or court-ordered documents for child support, garnishments, etc.? This documentation must be included. | | | Some deductions are not allowable regardless of employee authorization; please check with your CDBG field rep |
| Does entry in column 9 equal the result of the total deductions subtracted from the 2nd half of column 7 (gross amount from all jobs) | | | |
| Is there a statement of compliance for each weekly payroll? | | | |
| Is the statement of compliance complete? | | | Box 4a and/or 4b must be marked. Description of other deductions and bona-fide plans listed. |
| Is the statement of compliance signed by the owner or another authorized person? | | | If it is not signed by the owner, there must be a written statement on file that is signed and dated by the owner, authorizing signage of such documents. |
| | | | |
| If the payroll form and SOC are company-created, was the WH348 language used verbatim? | | | The statement of compliance language needs to be duplicated exactly as is found on the WH348. |
| Are there whiteouts, scratches, or markups on the payroll forms? | | | If yes – not acceptable |
| Has the payroll been completed using non-erasable ink? | | | If no—not acceptable |
| Are the signatures on the Statement of Compliance original? | | | If no—not acceptable |
| Are there more laborers (non-skilled workers) reflected on payroll for work requiring skilled labor? | | | If yes—question via written correspondence and get clarification on the duties of each worker. |
| **Checklist Items** | **Yes** | **No** | **Comments** |
| Are there 1099 workers on payrolls? | | | If yes— contracts with those workers inclusive of all CDBG language need to be on file. Get copies of contracts between subs and these workers. |
| Do all Prime and sub-contractor contracts hold the required CDBG language | | | Example: scope of work defined, |

| | | | |
|---|---|---|---|
| | | | implementation schedule, proper wage decision included, and the HUD 4010 |
| Did you review the payrolls before submitting them to the State? | | | |
| Did you perform an on-site interview with workers and record the responses on the HUD-11? | | | |
| Did you compare interview data to the applicable payroll where the given worker is reflected? | | | |
| Did you correct any discrepancies in interview and payroll data and sign the HUD-11? | | | |
| Are there apprentices on the project? | | | This documentation includes the payroll classification of the apprentice, the individual registration form for each apprentice, and the following pages from the Apprenticeship Program Standards: title page, pages for appropriate apprentice ratios, apprentice levels and percentages of pay and fringe benefits, and the Signatory Page. |
| Were apprentices paid properly? | | | If they were not paid according to the standards outlined in their program, then they may be owed restitution or must be paid journeyman's wages. |

# Payroll Authorization Letter

Project Name_____ Date (mm/dd/yyyyy)_____

Project No._____ Location_____

(I) (We) hereby certify that (I am) (we are) (the prime contractor) (subcontractor) for

_____ (specify “General Construction, Plumbing,

etc) in connection with construction of the above mentioned project and that (I) (we) have

appointed _____, whose

signature appears below, to supervise the payment of (my) (our) employee beginning

(Date: mm/dd/yy)_____; that he/she is in a position to

have full knowledge of the facts set forth in the payroll documents and in the statement of

compliance required by the Davis-Bacon Act/Copeland "Anti-Kickback" Act which he/she is to execute with (my) (our) full authority and approval until such time as (I) (we) submit to the (Project Name)

_____ a new certificate appointing some other person for the purposed

hereinabove stated.

_____ _____
(Identifying Signature of Appointee) (Name of Firm or Corporation)

_____ _____
Signature Signature

_____ _____
Title Title

_____ _____
Date (mm/dd/yyyy) Date (mm/dd/yyyy)

**NOTE**: This certificate must be an authorized officer of a corporation or by member of a partnership, and shall be executed prior to and be submitted with the first payroll. Should the appointee be changed, a new certificate must accompany the first payroll for which the new appointee executes a statement of compliance required by the Kick-Back Statue.

Department of Economic Development

# REQUEST FOR FEDERAL WAGE DETERMINATION

REQUEST IS HEREBY MADE FOR THE DETERMINATION OF THE WAGE RATES TO BE PAID, PURSUANT TO SECTIONS OF THE DAVIS-BACON ACT AND DBRA.

Grantee Name: _____ Project #: _____

Address: _____

City: _____ ZIP Code: _____

Date of Request: _____ County: _____

Mayor/Presiding Commissioner: _____

Project Description:

| *Check with the consulting engineer to determine the relative portion of the project activities under the Federal "80/20" definition, and respond to the following:* | Yes | No |
|---|---|---|
| 1. Does this project contain dual construction activities? | _____ | _____ |
| 2. If yes, is Building construction more than 20% of the total project, or | _____ | _____ |
| 3. If yes, is Heavy construction more than 20% of the total project? | _____ | _____ |

## Type of Federal Determination requested

_____ Heavy & Highway Only _____Building Only _____ Both H & H and Building

Name of person requesting wage rates: _____

Organization: _____

Phone (include area code): _____ E-Mail:_____

| _____ | _____ | _____ | _____ |
|---|---|---|---|
| Street Address | City (post office) | State | ZIP Code |

_____ _____

Signature Title

*This form must be completed and submitted to the CDBG Program no less than ten (10) days prior to the beginning of the bid advertising process (i.e., bid call date). Form may be mailed, faxed or emailed.*

MO 419-2914 (05-07)

Department of Economic Development

# START OF CONSTRUCTION NOTIFICATION

1. Project Number: _____ Recipient:_____

2. City: _____ County:_____ State:_____

3. Bid Call (advertising start date) :_____

4. Bid Opening Date :_____

5. Contract Award Date:_____

6. Federal Wage Decision #:_____ modification#:_____ Date: _____

7. State Annual Wage Order#:_____ Section:_____ Incremental Increase and Effective date:_____

8. Date of Contractor Clearance Check:_____

9. Date of Start of Construction :_____

10. Total Amount of Contract (All Funding Sources) :_____

11. General Contractor Registered Name

_____

_____

Federal Employer Tax ID Number

_____

Business Address

_____

_____

_____

14. Local Labor Standards Designee

_____

Phone Number_____

Email address:_____

15. Contractor Payroll Contact

_____

Phone Number_____

Email address _____

Mail or FAX this notice within ten (10) days after award of contract to:
Missouri Department of Economic Development
BCS Compliance Team
PO Box 118
Jefferson City, Missouri 65102
FAX: 573/526-4157
MO 419-2918 (05-07)

Department of Economic Development

Division of Business and Community Services

# Certified Payroll Review Checklist

Community Development Block Grant Program

| Prime/Subcontractor Reviewed: | |
|---|---|
| Project Number: | Payroll Number Reviewed: |

| Federal Wage Order: | State Wage rate: |
|---|---|

**Instructions:** This signed checklist is to be submitted with corresponding "Request for Funds Form" (RFF) before RFF's can be processed and approved.

## Payroll Information Checklist

| YES | N/A | |
|---|---|---|
| ☐ | ☐ | Contractor's name and address with the prime or subcontractor(s) identified. |
| ☐ | ☐ | Payroll number, week ending, and project location. |
| ☐ | ☐ | Employee full name and four-digit identification number. Employee's |
| ☐ | ☐ | full work classification, including group or class Identification of |
| ☐ | ☐ | apprentices and program levels (%) on payrolls |
| ☐ | ☐ | Daily and weekly employee hours worked in each applicable work classification |
| ☐ | ☐ | Daily and weekly employee overtime hours worked in each applicable work classification |
| ☐ | ☐ | Base rate shown for each employee classification, overtime rate shown when worked per |
| ☐ | ☐ | classification. Week's Gross amount earned. |
| ☐ | ☐ | Weeks itemized deductions with explanation of itemized deductions if needed. |
| ☐ | ☐ | Week's Net wages paid. |
| ☐ | ☐ | Compliance statement attached. |
| ☐ | ☐ | Method of fringe benefit payment described by checking either box (4) (a) or (4) (b) Exceptions explanation for fringe benefit (4) (c) |
| ☐ | ☐ | Fringe benefit package information in file and updated as needed Identification of |
| ☐ | ☐ | OJTs, apprentices and program levels (%) on payrolls Statement of compliance has |
| ☐ | ☐ | original signature of owner or authorized person. |

## Compliance Review Checklist

| Yes | N/A | |
|---|---|---|
| ☐ | ☐ | Verify work classifications reported are consistent with the work performed |
| ☐ | ☐ | Verify correct wage rates are being paid (Federal vs. State requirements) |
| ☐ | ☐ | Verify overtime is being paid correctly (Federal vs. State requirements) |
| ☐ | ☐ | Verify that Apprentice Program documentation is in project files |
| ☐ | ☐ | Compare payrolls with wage rate interviews |

| Reviewed By: | Date: |
|---|---|

I hereby attest that the above referenced payroll review has been performed in accordance with the current CDBG Administrative Manual guidelines. When applicable, all discrepancies have been brought to the attention of the Prime Contractor and a corresponding CDBG "Employee Restitution Checklist" has been attached.

# Certified Payroll Review Sheet

Project:_____ State Wage Order:_____

Company Name:_____ Federal Wage Order:_____

**Straight Time Compliance**

| Pay No. | Name | Craft or Classification | Rate Paid | | | State Rate | | | Federal Rate | | | Rate vs. Prevailing Wage |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Basic | Fringe | Total | Basic | Fringe | Total | Basic | Fringe | Total | |
| | Period ending: | | | | | | | | | | | |
| | | | | | $ | | | $ | | | $ | |
| | | | | | $ | | | $ | | | $ | |
| | | | | | $ | | | $ | | | $ | |
| | | | | | $ | | | $ | | | $ | |
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**Overtime Compliance**

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NOTES: Reviewer:_____ Signature:_____

## Fringe Benefits are Paid to Approved Plans, Funds, or Programs .

In addition to the basic rates paid to each laborer or mechanic on the payroll, payments have been or will be made to appropriate programs for the benefit of the employees as shown in the following chart below. If fringe benefits amounts paid are the same for all employees, you may list the amount of each such identical fringe payments only once in the appropriate column; if the fringe benefit amounts vary by employee, list each employee's name and set out the amounts paid on behalf of each employee for each fringe benefit.

| Employee Name | Health and Welfare ($/hr) | Pension ($/hr) | Vacation ($/hr) | Holiday ($/hr) | Apprent-ice Training ($/hr) | Other C ($/hr) | Other D ($/hr) | Total ($/hr) | If "other deduction" or fringes, please explain (indicate other A,B ,C or D) | Identify by name, the plan, fund, or programs to which fringe benefits are paid (Indicate H&W, Pension, etc.) |
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**U.S. Department of Labor**
Employment Standards Administration,
Wage and Hour Division

# PAYROLL

**(For Contractor's Optional Use; See Instructions at www.dol.gov/esalwhdlforms/wh347instr.htm)**

P

U.S. Wage and Hour Division Rev. Dec. 2008

OMS No.: 1215-0149
Expires: *12/31/2011*

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐ IRS #_____ ADDRESS

PAYROLL NO. FOR WEEK ENDING PROJECT AND LOCATION PROJECT OR CONTRACT NO.

| (1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER | (2) NO. OF WITHHOLDING EXEMPTIONS | (3) WORK CLASSIFICATION | O; S; O; O | (4) DAY AND DATE / HOURS WORKED EACH DAY | (5) TOTAL HOURS | (6) RATE OF PAY | (7) GROSS AMOUNT EARNED | (8) DEDUCTIONS: FICA | WITH-HOLDING TAX | | | OTHER | TOTAL DEDUCTIONS | (9) NET WAGES PAID FOR WEEK |
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and compiete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

We estimate that is will take an average of 55 minutes to complete this collection, including time for revielNing instructions, searching eXisting data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, inCluding suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room 53502, 200 Constitution Avenue, N.W. Washington. D.C. 20210

Date _____

I, _____ _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)

_____; that during the payroll period commencing on the
(Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Start. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. 276c), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination Incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, of if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ – in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ – Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in Section 4(c) below.

(c) EXCEPTIONS

| EXCEPTION (CRAFT) | EXPLANATION |
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REMARKS:

| NAME AND TITLE | SIGNATURE |
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

* U.S. G.P.O.:1997 519.861

# WAGE AND HOUR DIVISION (WHD)
# INSTRUCTIONS FOR COMPLETING PAYROLL FORM, WH-347

- WH-347 (PDF)
  OMB Control No. 1215-0149, Expires 12/31/2011.
  Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**General:** Form WH-347has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 C.F.R., Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow:

**Contractor or Subcontractor:** Fill in your firm's name and check appropriate box.
**Address:** Fill in your firm's address.
**Payroll No.:** Beginning with the number "1", list the payroll number for the submission.
**For Week Ending:** List the workweek ending date.
**Project and Location:** Self-explanatory
**Project or Contract No.:** Self-explanatory

**Column 1 - Name and Individual Identifying Number of Worker:** Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.

**Column 2 - No. of Withholding Exemptions:** This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

**Column 3 - Work Classifications:** List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown or hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.

**Column 4 - Hours worked:** List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

**Column 5 - Total:** Self-explanatory

**Column 6 - Rate of Pay (Including Fringe Benefits):** In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "$12.25/.40" would reflect a $12.25 base hourly rate plus $0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds $100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

**Column 7 - Gross Amount Earned:** Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus "$163.00/$420.00" would reflect the earnings of a worker who earned $163.00 on a Federally assisted construction project during a week in which $420.00 was earned on all work.

**Column 8 - Deductions:** Five columns are provided for showing deductions made. If more than five deductions are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

**Column 9 - Net Wages Paid for Week:** Self-explanatory.
**Totals** - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

**Statement Required by Regulations, Parts 3 and 5:** While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

**Items 1and 2:** Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "*See* Deductions column in this payroll." *See* "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

**Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits:** If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

**Contractors who pay no fringe benefits:** If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

**Use of Section 4(c), Exceptions**
Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See the paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

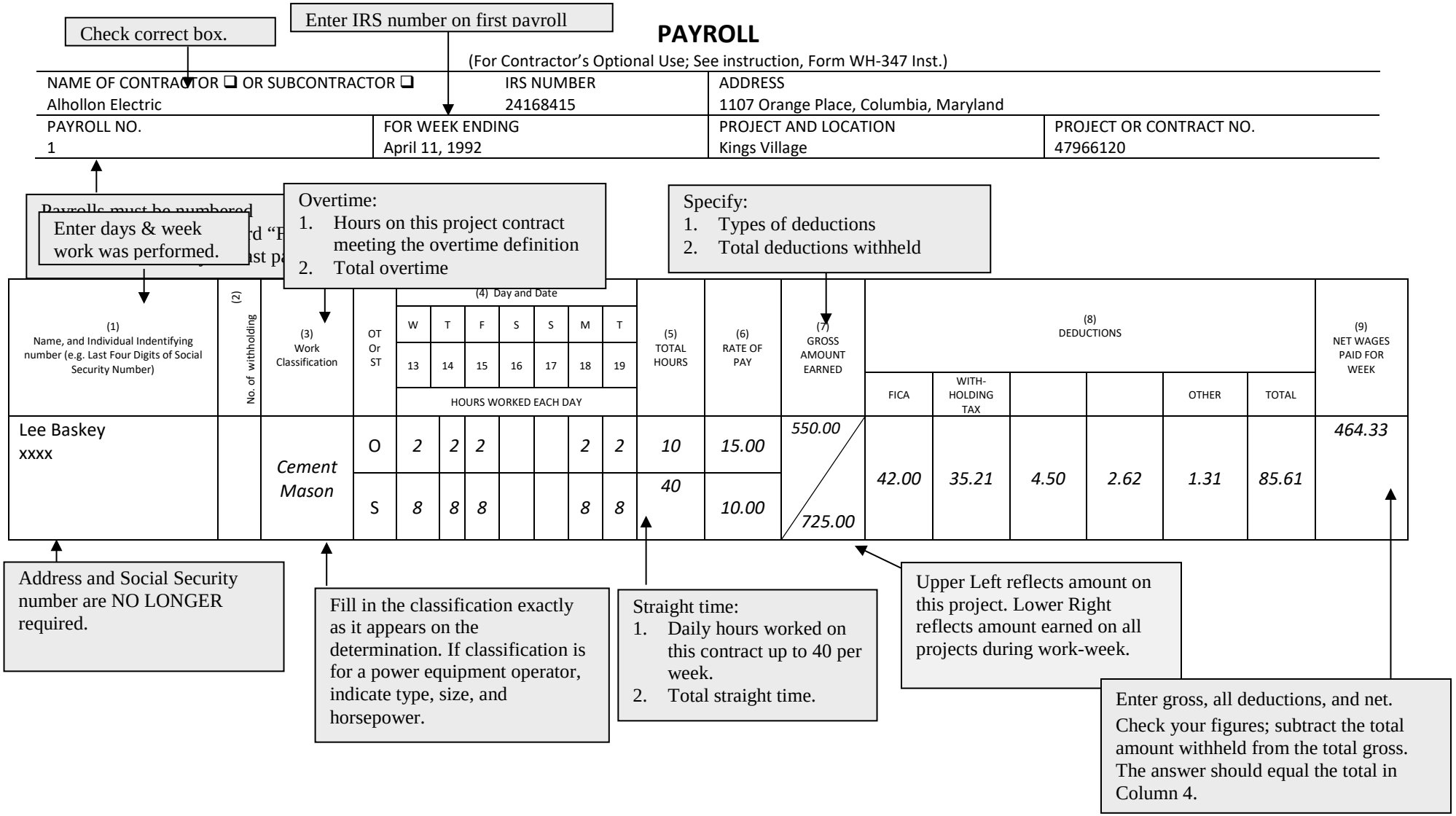
**Public Burden Statement:** We estimate that it will take an average of 55 minutes to complete this collection of information, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection of information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

**Note:** In order to view, fill out, and print PDF forms, you need Adobe® Acrobat® Reader® version 5 or later, which you may download for free at www.adobe.com/products/acrobat/readstep2.html. To save the completed forms on your workstation, you need to use the "Save As" method to save the file.
For example, move your mouse curser over the PDF link and click on your "RIGHT" mouse button. This will cause a menu to be displayed, from which you will select the proper save option -- depending upon which browser you are using:

- For Microsoft IE users, select "Save Target As"
- For Netscape Navigator users, select "Save Link As"

Once you've selected the proper save option for your browser, and have saved the file to a location you specified, go to your program menu and start the Adobe Acrobat® Reader. Once open, locate the PDF file you saved and open it directly in Acrobat®.

# HOW TO COMPLETE PAYROLL FORMS (FRONT SECTION)



# INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in *lieu* of fringes.

The contractor should **show on the first page of his payroll all monies paid to the employees** whether as basic rates or as cash in *lieu* of fringes. The contractor shall represent in the statement of compliance that **he is paying to others** fringes required by the contract and not paying as cash in *lieu* of fringes. Detailed instructions follow:

**Contractors who pay all required fringe benefits**

A contractor who pays fringe benefits to approved plans, funds, or programs, in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, shall continue to show on the face of his payroll the basic cash hourly rate and overtime rate paid to his employees. The contractor shall check paragraph 4(a) of the statement to indicate that he is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

**Contractors who pay no fringe benefit**

Contractors who pay no fringe benefits shall pay to the employee, and insert in the straight time hourly rate column of his payroll, an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Since it is not necessary to pay time and a half on cash paid in *lieu* of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate, plus the required cash in *lieu* of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column (example $3.25/.40). In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

**Use of Section 4(c), Exceptions**

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the employees as cash in *lieu* of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as cash in *lieu* of fringes and the hourly amount paid to plans, funds, or programs as fringes.

## CDBG EMPLOYEE RESTITUTION CHECKLIST

**CDBG Project** _____ **Grantee Name**_____
**Applicable State Wage Rates #**_____ **Applicable Federal Wage Rates #**_____
**Name of Contractor** _____
**Date of Payroll with wage error**_____

**Reason for Error:**

- ☐ Wrong hourly amount
- ☐ Wrong classification
- ☐ Wrong wage rate
  - o Used amount from federal, should have been state
  - o Used amount from state, should have been federal
  - o Used wrong wage publication

| Name of Employee | Job Classification | Wage Amount Paid | Correct Wage Amount | Amount of Difference | # hours worked in period | Amount Due | Amount of Restitution |
|---|---|---|---|---|---|---|---|
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**Date of Notification to Contractor**_____ **Date of Restitution Made**_____

## ATTACH THE FOLLOWING DOCUMENTS TO THIS COMPLETED FORM, IF APPLICABLE:

- ☐ Copy of Certified Payroll in error
- ☐ Copy of corrected Certified Payroll
- ☐ Copy of the notification to contractor
- ☐ Copy of correct wage rates, if applicable

# Record of Employee Interview

**U.S. Department of Housing and Urban Development**
**Office of Labor Relations**

OMB Approval No. 2501-0009
(exp. 08/31/2007)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information**. The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential**.

| 1a. Project Name | 2a. Employee Name |
|---|---|
| 1b. Project Number | 2b. Employee Phone Number (including area code) |
| 1c. Contractor or Subcontractor (Employer) | 2c. Employee Home Address & Zip Code<br>2d. Verification of identification? Yes ☐ No ☐ |

| 3a. How long on this job? | 3b. Last date on this job before today? | 3c. No. of hours last day on this job? | 4a. Hourly rate of pay? | 4b. Fringe Benefits? | 4c. Pay stub? |
|---|---|---|---|---|---|
| | | | | Vacation Yes ☐ No ☐<br>Medical Yes ☐ No ☐<br>Pension Yes ☐ No ☐ | Yes ☐ No ☐ |

5. Your job classification(s) (list all) --- continue on a separate sheet if necessary

6. Your duties

7. Tools or equipment used

CONFIDENTIAL

| | Y | N | | Y | N |
|---|---|---|---|---|---|
| 8. Are you an apprentice or trainee? | ☐ | ☐ | 10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week? | ☐ | ☐ |
| 9. Are you paid for all hours worked? | ☐ | ☐ | 11. Have you ever been threatened or coerced into giving up any part of your pay? | ☐ | ☐ |

| 12a. Employee Signature | 12b. Date |
|---|---|

13. Duties observed by the Interviewer (Please be specific.)

14. Remarks

| 15a. Interviewer name (please print) | 15b. Signature of Interviewer | 15c. Date of interview |
|---|---|---|

## Payroll Examination

16. Remarks

| 17a. **Signature of Payroll Examiner** | 17b. **Date** |
|---|---|

**Previous editions are obsolete**

Page 1 of 2

form **HUD-11** (08/2004)

Instructions

General:

This form is to be used by HUD and local agency staff for recording information gathered during on-site interviews with laborers and mechanics employed on projects subject to Federal prevailing wage requirements. Typically, the staff that will conduct on-site interviews and use this form are HUD staff and fee construction inspectors, HUD Labor Relations staff, and local agency labor standards contract monitors.

Information recorded on the form HUD-11 is evaluated for general compliance and compared to certified payroll reports submitted by the respective employer. The comparison tests the veracity of the payroll reports and may be critical to the successful conclusion of enforcement actions in the event of labor standards violations. The thoroughness and accuracy of the information gathered during interviews is crucial.

Note that the interview itself and the information collected on the form HUD-11 are considered confidential. Interviews should be conducted individually and privately. All laborers and mechanics employed on the job site must be made available for interview at the interviewer's request. The employee's participation, however, is voluntary. Interviews shall be conducted in a manner and place that are conducive to the purposes of the interview and that cause the least inconvenience to the employer(s) and the employee(s).

Completing the form HUD-11

Items 1a - 1c: Self-explanatory

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available. Ask the employee for a form of identification (e.g., driver's license) to verify their name.

Items 3a – 4c: Enter the employee's responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 – 7: Be certain that the employee's responses are specific. For example, job classification (#5) must identify the trade involved (e.g., Carpenter, Electrician, Plumber) – responses such as "journeyman" or "mechanic" are not helpful for our purposes.

Items 8 – 12b: Self-explanatory

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? Was the employee evasive?

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 – 17b: The information on the form HUD-11 may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

Once the corresponding certified payroll reports are received, the information on the HUD-11 shall be compared to the payroll reports. Any discrepancies noted between the HUD-11 information and that on the payroll report shall be noted in Item 16, Remarks. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.

AUTHORIZED FOR LOCAL REPRODUCTION

# REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX
☐ SERVICE CONTRACT
☐ CONSTRUCTION CONTRACT

**OMB Control Number: 9000-0089**
**Expiration Date: 10/31/2019**

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0089, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.

**INSTRUCTIONS:** THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER.

| 1. TO: | 2. FROM: *(REPORTING OFFICE)* |
|---|---|
| ADMINISTRATOR,<br>WAGE AND HOUR DIVISION<br>U.S. DEPARTMENT OF LABOR<br>WASHINGTON, DC 20210 | |

| 3. CONTRACTOR | 4. DATE OF REQUEST |
|---|---|
| | |

| 5. CONTRACT NUMBER | 6. DATE BID OPENED *(SEALED BIDDING)* | 7. DATE OF AWARD | 8. DATE CONTRACT WORK STARTED | 9. DATE OPTION EXERCISED (If *APPLICABLE) (SERVICE CONTRACT ONLY)* |
|---|---|---|---|---|
| | | | | |

10. SUBCONTRACTOR *(IF ANY)*

11. PROJECT AND DESCRIPTION OF WORK *(ATTACH ADDITIONAL SHEET IF NEEDED)*

12. LOCATION *(CITY, COUNTY AND STATE)*

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: DATED:

| a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS *(Service contracts only)* | b. WAGE RATE(S) | c. FRINGE BENEFITS PAYMENTS |
|---|---|---|
| *(Use reverse or attach additional sheets, if necessary)* | | |

| 14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE *(IF ANY)* | 15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE |
|---|---|
| | |

| 16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE | TITLE | CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. |
|---|---|---|
| | | ☐ AGREE ☐ DISAGREE |

**TO BE COMPLETED BY CONTRACTING OFFICER *(CHECK AS APPROPRIATE - SEE FAR 22.1019 (SERVICE CONTRACT LABOR STANDARDS) OR FAR 22.406-3 (CONSTRUCTION WAGE RATE REQUIREMENTS))***

☐ THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

☐ THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

*(Send 3 copies to the Department of Labor)*

| SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE | TITLE AND COMMERCIAL TELEPHONE NUMBER | DATE SUBMITTED |
|---|---|---|
| | | |

PREVIOUS EDITION IS USABLE

**STANDARD FORM 1444** (REV. 4/2013)
Prescribed by GSA-FAR (48 CFR) 53.222(f)

| **Report of Additional Classification and Wage Rate** | **U.S. Department of Housing and Urban Development**<br>**Office of Labor Relations** | OMB Approval No. 2501-0011<br>(Exp. 09/30/2006) |
|---|---|---|

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Employers engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged on the construction work. On occasion, the applicable Davis-Bacon wage decision does not contain all of the work classifications and wage rates needed to complete the construction work. This information collection facilitates the addition of needed work classifications and wage rates for the construction work involved. This form is used by HUD and local agencies administering HUD programs to report employer request(s) for additional classification and wage rates so that an appropriate wage rate can be approved by the Department of Labor for the construction work. This information collection is required by Department of Labor regulations at 29 CFR 5.5. While no assurances of confidentiality are pledged to respondents, HUD generally discloses these data only in response to a Freedom of Information request.

Instructions

General:

Contractors/Employers: Do not need to complete this form. Submit a written, signed request to the responsible contracting agency naming the work classifications and the wage rates, including any fringe benefits, that are proposed.

Local Agency Staff: Complete items 2 through 10. Submit one copy of this form to the responsible HUD Labor Relations Office with a copy of the applicable Davis-Bacon wage decision and the written request from the employer naming the work classifications and wage rates that are proposed. (The employer's request must be made in writing and must be signed.)

1. For HUD or State CDBG Office use. Enter the name and address of HUD Office (or State CDBG office) submitting the report and to which the DOL reply should be sent.
2. Enter the name and number of the project or contract involved.
3. Enter the location of the project involved: city, county and state.
4. Describe the construction involved, e.g., new construction or rehabilitation, number and type of buildings, number of stories, number of units (as applicable). For example, New construction: 3 – 4-story buildings; 120 units.
5. Enter the character of construction as defined by DOL for Davis-Bacon prevailing wage rate purposes.
6. Enter the number of the Davis-Bacon wage decision applicable to the construction work. Include the number of wage decision modifications (if any) applicable to the work.
7. Enter the effective date of the wage decision for the project. (See DOL regulations at 29 CFR 1.6.)
8. Enter the work classifications and corresponding hourly basic wage rates and fringe benefit rates (if any) requested.
9. Self-explanatory.
10. If the requesting employer is not the prime contractor, enter the name and address of the subcontractor/employer making the request.

Remainder of Form: HUD Labor Relations/State CDBG use.

HUD Labor Relations/State CDBG Staff: Evaluate the employer's request against the criteria for approval (see DOL Regulations, 29 CFR Part 5, and related contract labor standards provisions). The criteria are reflected in "checklist" form to ensure that each factor is considered and to ensure that supporting documentation, including a copy of the applicable wage decision, is attached. Check the box next to each criterion that is met; do not check the box next to any criterion that is not met.

If the request meets all criteria, check the appropriate box, enter the name and telephone number of the HUD/State CDBG agency representative, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision and the written request from the employer involved.

If the request fails to pass all criteria, check the appropriate box, enter agency contact information, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision, the written request from the employer involved, *and* a cover letter explaining how the employer's request failed to meet one or more of the criteria.

Submission of Report

Completed forms shall be sent to: Branch of Construction Wage Determinations, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-3014, Washington, DC 20210.

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE

## SPECIALTY CLASSES THAT SHOULD NOT BE REQUESTED IF THE DUTIES ARE PERFORMED BY GENERAL CRAFTS IN THE CONTRACT WAGE DETERMINATION

| **SPECIALTY**<br>(often requested by contractors) | **GENERAL CRAFT**<br>(may perform the specialty duties) |
|---|---|
| Drywall (sheetrock) installers | Carpenters |
| Drywall finishers/tapers | Painters |
| Alarm installers<br>Sound and communication workers/installers<br>Electronic technicians<br>Lightning protection installers<br>Low voltage installers | Electricians |
| HVAC mechanics (heating, ventilation and air conditioning mechanics)<br>Refrigeration mechanics/workers<br>Furnace installers<br>Burner repairmen | Sheet metal workers<br>Plumbers<br>Pipe fitters/steam fitters<br>Electricians |
| Pipe wrappers/insulators<br>Mechanical (system) insulators | Asbestos workers/heat & frost insulators |
| Batt insulation installers<br>Blown insulation installers | Carpenters<br>Laborers |
| Asbestos removal from pipes and boilers that will be reinsulated | Asbestos workers/heat & frost insulators |
| Asbestos removal – except from pipes and boilers that will be reinsulated | Laborers |
| Metal building assemblers/builders/erectors | Iron workers<br>Laborers<br>Sheet metal workers<br>Carpenters |
| Fence erectors | Ironworkers<br>Laborer |
| Rebar workers<br>Rodman (performing rebar work)<br>Steel setters<br>Steel or iron tiers | Ironworkers (reinforcing)<br>Cement workers<br>Laborers |
| TV-grout operators | Power equipment operators<br>Laborers<br>Truck drivers |

# EMPLOYEE RIGHTS
# UNDER THE DAVIS-BACON ACT
## FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

**PREVAILING WAGES** — You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

**OVERTIME** — You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

**ENFORCEMENT** — Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

**APPRENTICES** — Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

**PROPER PAY** — If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

MO Department of Economic Development
BCS Compliance Team
PO Box 118
Jefferson City, MO 65102-0118
Phone: (573)-751-3600

or contact the U.S. Department of Labor's Wage and Hour Division.

For additional information:

**1-866-4-USWAGE**
(1-866-487-9243) TTY: 1-877-889-5627

WHD U.S. Wage and Hour Division

**WWW.WAGEHOUR.DOL.GOV**

U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division

WH 1321(Revised April 2009)

# Equal Employment Opportunity is THE LAW

## Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

**RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**
Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

**DISABILITY**
Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

**AGE**
The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

**SEX (WAGES)**
In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

**GENETICS**
Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

**RETALIATION**
All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

**WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED**
There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:
The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

## Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

**RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**
Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

**INDIVIDUALS WITH DISABILITIES**
Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

**DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS**
The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

**RETALIATION**
Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at OFCCP-Public@dol.gov, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

## Programs or Activities Receiving Federal Financial Assistance

**RACE, COLOR, NATIONAL ORIGIN, SEX**
In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

**INDIVIDUALS WITH DISABILITIES**
Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

*EEOC 9/02 and OFCCP 8/08 Versions Useable With 11/09 Supplement* *EEOC-P/E-1 (Revised 11/09)*

# You Have a Right to a Safe and Healthful Workplace.

# IT'S THE LAW!

- You have the right to notify your employer or OSHA about workplace hazards. You may ask OSHA to keep your name confidential.
- You have the right to request an OSHA inspection if you believe that there are unsafe and unhealthful conditions in your workplace. You or your representative may participate in the inspection.
- You can file a complaint with OSHA within 30 days of discrimination by your employer for making safety and health complaints or for exercising your rights under the *OSH Act*.
- You have a right to see OSHA citations issued to your employer. Your employer must post the citations at or near the place of the alleged violation.
- Your employer must correct workplace hazards by the date indicated on the citation and must certify that these hazards have been reduced or eliminated.
- You have the right to copies of your medical records or records of your exposure to toxic and harmful substances or conditions.
- Your employer must post this notice in your workplace.



The *Occupational Safety and Health Act of 1970 (OSH Act)*, P.L. 91-596, assures safe and healthful working conditions for working men and women throughout the Nation. The Occupational Safety and Health Administration, in the U.S. Department of Labor, has the primary responsibility for administering the *OSH Act*. The rights listed here may vary depending on the particular circumstances. To file a complaint, report an emergency, or seek OSHA advice, assistance, or products, call 1-800-321-OSHA or your nearest OSHA office: • Atlanta (404) 562-2300 • Boston (617) 565-9860 • Chicago (312) 353-2220 • Dallas (214) 767-4731 • Denver (303) 844-1600 • Kansas City (816) 426-5861 • New York (212) 337-2378 • Philadelphia (215) 861-4900 • San Francisco (415) 975-4310 • Seattle (206) 553-5930. Teletypewriter (TTY) number is 1-877-889-5627. To file a complaint online or obtain more information on OSHA federal and state programs, visit OSHA's website at **www.osha.gov**. If your workplace is in a state operating under an OSHA-approved plan, your employer must post the required state equivalent of this poster.

## 1-800-321-OSHA

## www.osha.gov

U.S. Department of Labor • Occupational Safety and Health Administration • OSHA 3165

DIVISION OF LABOR STANDARDS

MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

# PREVAILING WAGE PROJECT NOTIFICATION – CONTRACTOR INFORMATION

The information below is requested pursuant to Sections 290.210 through 290.340, RSMo.

| | |
|---|---|
| 1. Date of Notification | 2. Annual Wage Order Number Included in Bid Specifications |
| 3. Popular or Descriptive Name of Project | |
| 4. Estimated Project Cost of Completion *(total construction contracts to be awarded)* $ | |
| 5. Exact Location of Project<br>County / City / Township | |
| 6. Official Name of Public Body or Agency | |
| 7. Name of Contact Person | 8. Phone Number *(include area code)* |
| 9. Address | |
| 10. E-mail Address / Website | |
| 11. Anticipated Date for Soliciting or Advertising for Bids | 12. Contract Award Date |
| 13. Estimated Start Date of Work / 14. Estimated Date of Project Completion / 15. Will There Be Any Federal Funds Used in this Contract? ☐ Yes ☐ No | |

16. Contractor Information Notification

General Contractor:
- Name
- Address
- City / State / ZIP
- Phone Number / E-mail Address
- Type of Craftsmen Needed by Project
- Scope of Work

List all Subcontractors:
- Name
- Address
- City / State / ZIP
- Phone Number / E-mail Address
- Type of Craftsmen Needed by Project
- Scope of Work

Name
- Address
- City / State / ZIP
- Phone Number / E-mail Address
- Type of Craftsmen Needed by Project
- Scope of Work

The state of Missouri requires workers on public works projects be paid the prevailing wage. Public bodies have duties as required under Section 290.210 - 290.340, RSMo.

Mail, Fax, or E-mail completed form to: DIVISION OF LABOR STANDARDS
Attn: Prevailing Wage Section
P.O. Box 449 Jefferson City, MO 65102-0449
Phone: 573-751-3403 Fax: 573-751-3721 E-mail: prevailingwage@labor.mo.gov Website: www.labor.mo.gov/DLS

*Missouri Department of Labor and Industrial Relations is an equal opportunity employer/program.*

PW-2 (02-14) AI

DIVISION OF LABOR STANDARDS

MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

# MISSOURI PUBLIC WORKS PROJECTS CONTRACTOR CHECK-OFF LIST

The Division of Labor Standards (DLS) is providing this check-off list to assist contractors in being compliant with Missouri's labor laws applicable to public construction projects. The Prevailing Wage Law requires that not less than the locally prevailing wages be paid to workers on every construction project in the state that is for the public use or benefit or that uses public funds. Failure to comply with the Prevailing Wage Law may constitute a misdemeanor for the employer and for the public official that does not fulfill the responsibilities it imposes. The Construction Safety Training Act mandates that all employees working on the site of public works construction projects must have received safety training.

## I
## Before Contract Is Let

☐ The wage order provided by DLS must be made a part of the specifications for the work to be performed under the contract (Section 290.250 and 290.325, RSMo).

## II
## While Contract Is Being Performed

☐ All workers performing work under a public construction contract **must** be paid **not less** than the prevailing hourly rate of wages (as set out in the wage order attached to and made part of the specification for work under the contract). (Section 290.250, RSMo).

The contractor will forfeit a penalty to the contracting public body of $100 per day (or portion of a day) for each worker that is paid less than the prevailing rate for any work done under the contract by the contractor or by any subcontractor (Section 290.250, RSMo). For detailed information on rules and occupational titles, see 8 CSR 30-3.010 through 3.060.

☐ The contractor and all subcontractors to the contract must require all on-site employees to complete the ten-hour construction safety training program required under Section 292.675, RSMo, if they have not previously completed the program and have documentation of having done so.

The contractor will forfeit a penalty to the contracting public body of $2500 plus an additional $100 for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. (Section 292.675, RSMo).

☐ A legible list of all prevailing wage rates **must remain** posted in a prominent and easily accessible place at the worksite by each contractor and subcontractor on the project. The notice must be posted during the full time that any worker is employed on the job (Section 290.265, RSMo).

☐ The payroll records required to be so kept shall be open to inspection by any authorized representative of the contracting public body or of DLS at any reasonable time and as often as may be necessary and such records shall not be destroyed or removed from the state for the period of one year following the completion of the public work in connection with which the records are made (Section 290.290, RSMo). DLS provides a Contractor Payroll Records form (LS-57) for contractors and subcontractors to use to assure provision of the payroll information required (8 CSR 30-3.010[7]).

PW-8 (04-14) AI

## III
## Before Contract Is Fully Paid

☐ Before final payment can be made, the general contractor and all subcontractors **must** file an **Affidavit of Compliance** (PW-4) with the contracting public body. The affidavit must affirm under oath that the party has fully complied with Missouri Prevailing Wage Law, and the public body must verify that the correct wages were paid. No payment can be legally made by the public body to the contractor(s) until the affidavit is filed in proper form and order with the public body (Section 290.290 and 290.325, RSMo).

☐ It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of any such subcontractor's failure to comply with the terms of sections 290.210 to 290.340, and if payment has already been made to him, the contractor may recover from the subcontractor the amount of the penalty in a suit at law (Section 290.250.1, RSMo).

Failure to comply with the requirements of the Prevailing Wage Law can result in civil action, including an injunction stopping work on a project, and in criminal fines of up to $500 and up to six months imprisonment for **each day** there is a violation.

The Division of Labor Standards is available to answer questions and provide assistance with prevailing wage project compliance. Contact us anytime at:

Missouri Department of Labor and Industrial Relations
Division of Labor Standards
Prevailing Wage Section
P.O. Box 449
Jefferson City, MO 65102-0449
Phone: 573-751-3403
Fax: 573-751-3721

E-mail: prevailingwage@labor.mo.gov

Website: http://www.labor.mo.gov/DLS/prevailingwage/

*Missouri Department of Labor and Industrial Relations is an equal opportunity employer/program.*

## **LABOR STANDARDS HELPFUL HINTS**

- Review each payroll to determine whether correct wages were paid for the time period prior to submitting an RFF for payment to the contractor.
- Make sure the correct Federal wage decision and State Wage Order are in the bid packets.
- Scheduling pre-bid and pre-construction meetings can prevent many problems.
- If payrolls indicate that wage restitution is necessary, immediately initiate the corrective actions as described in the narrative portion of this chapter.
- The longer a labor-related problem remains unaddressed, the more difficult it becomes to resolve. The Compliance Team staff offers technical assistance to all parties involved with the various facets of labor standards requirements.

# CHAPTER VIII

## CIVIL RIGHTS

## Introduction:

State of Missouri CDBG program grantees and those firms contracted by the grantees to be paid with CDBG funds will certify compliance with a broad range of State and Federal regulations relating to Civil Rights and Equal Opportunity. The certifications are contained in the "Statement of Assurances" which are part of the funding approval/grant agreement between DED and the grantee. Civil rights, labor, environmental, and other compliance certifications and provisions are also contained in DED's model construction and professional services contracts for a grantee to use with its contractors and sub grantees.

These statutes and regulations are intended to protect the rights of all persons, and to prohibit discrimination against persons on the basis of race, national origin, color, religion, sex, age (only for employment discrimination), disability, or familial status. In 2012, HUD issued a rule to provide equal access to HUD programs for LGBT individuals. In 2000, the President issued Executive Order 13166 to provide for improved access to CDBG programs for individuals with limited English proficiency. Building on that rule, on September 21, 2016 HUD issued a final rule, "Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs Rule" (Gender Identity Rule). The Missouri Department of Economic Development is committed to the CDBG Program's civil rights objectives of fair housing, equal opportunity, and non-discrimination. Each project is monitored for compliance with the HUD/CDBG civil rights requirements. Under state law, fair housing and employment rights are protected from discrimination under Chapter 213 of the Missouri Revised Statutes.

A list and brief description of the civil rights laws applicable to the CDBG program is provided at the end of this chapter. The various civil rights laws, regulations, and executive orders apply to several areas of a CDBG project, as explained in each of the following sections listed below:

Section 1: Fair Housing + Analysis of Impediments (AI) to Fair Housing Choice

Section 2: Contracting Opportunities – MBE/WBE/DBE/Section 3 Procurement

Section 3: Section 3 Requirements and Project Contract Reporting – CSAR Report & Section 3 Report

Section 4: Employment Opportunities

Section 5: LGBTQ Equal Access Rule

Section 6 Limited English Proficiency (LEP) Compliance

Section 7: Section 504 Program Accessibility/Disability Compliance

Section 8 Participation of Religious and Faith Based Organizations

## SECTION 1: FAIR HOUSING

Fair Housing has traditionally been a strong focus for civil rights efforts in the United States and continues to represent a key objective for both HUD and the Missouri CDBG program. CDBG grant recipients are required to adopt a fair housing ordinance. Fair Housing compliance also requires DED's grantees to take two annual official actions. One official action a grantee must take is to affirmatively further fair housing. Here, a grantee actions are to educate and inform its citizens and fair housing stake holders about the state and federal fair housing laws. The second official action is to address identified impediments to fair housing choice. All grantees must complete and document these two types of Fair Housing actions during each 12-month period that your CDBG grant project is open. DED provides suggested official actions in this section and on DED's website. Grantees must provide DED staff with documentation of its annual actions at the monitoring visits. Below, we further explain the difference between the two types of official Fair Housing actions.

## A. Grantee's Annual Official Action to Address Impediments to Fair Housing Choice

Fair Housing choice means that all persons have the same access to their choice of housing in America regardless of race, color, national origin, religion, sex, disability, or familial status. An impediment to Fair Housing choice is a barrier or something that prevents a person from exercising that right or choice of housing. In 1997, the Missouri CDBG program contracted with a private consultant to perform an Analysis of Impediments (AI) study to assess the existence of impediments to fair housing choice in the State of Missouri. An update of that AI study was done by DED in 2014.

The findings from the 2014 update to the state's 1997 AI Study showed that the identified impediments to fair housing choice vary, but exist around the state in each of the following 6 categories:

1. Affordable Housing Shortage: A shortage of decent, safe, and sanitary housing that is affordable for LMI individuals and families exist.
   - The "Not In My Backyard" (NIMBY) attitude continues to persists as an impediment to the development & construction of affordable housing.
   - Lengthy waiting lists for public housing units and Section 8 vouchers and certificates persist with both local housing authorities and Section 8 contract providers.
2. A shortage of fully accessible, affordable housing for the disabled
   - Need for the promotion and construction of more universal design housing units, which are accessible by design.
   - Fair Housing Act only requires that 5% of newly constructed units be fully accessible, when the market demand may be higher.
   - Landlords of existing rental units are not always supportive of complying with "reasonable accommodation modification" request from disabled tenants; nor are the "reasonable accommodation" laws fully understood by both landlords and tenants.
3. Protected Class Status Discrimination: Familial Status and Disability received the most comments.
   - Familial Status, e.g., unwed couples, female heads of household, and, families with three or more children found their status to be an impediment to having their lease applications approved.
   - Other protected classes that were reported in the study were: familial status, race, national origin, and sex that experienced some form of discrimination. Unreported in the updated study was discrimination based on "religion" and "ancestry."
   - Pretext: Use of pretext reasons to deny one their housing choice with rental applications, such as, poor credit history, prior eviction, criminal conviction or behavior, etc.
4. Income Variable:
   - Landlords unwilling to rent to families receiving Section 8 or other public assistance.
   - Source of income and past consumer credit problems used to deny mortgage loan applications and rental applications.
   - Economically Rent Burden – rent and utilities exceeds 30% of household's monthly income, which exceeds both HUD's and Rural Development's affordability standards.
5. Local Ordinances, Regulations, and Policies that cause Disparate Impact.
   - Inflexible Section 8 and Public Housing regulations
   - Cumbersome paperwork requirements for state and Federal housing programs
   - Overly restrictive local zoning and occupancy permit practices that impede affordable housing from being constructed or impede gaining an occupancy permit.
6. Lack of knowledge/education about fair housing choice.
   - Limited knowledge of individual rights under fair housing laws
   - A majority of the persons surveyed did not know how to properly file a State or Federal fair housing complaint.

Grantees must take an official action to address one of the above identified impediments during each 12-month period that your project is open. The CDBG program will continue to provide technical assistance, including a list of official actions, brochures, and documents on our website from which grantees may select an action to implement.

Please Note: In order to achieve compliance, a grantee must complete an official action to address or to minimize one of the above identified impediments each year their project is open. For Example: To address impediment #1 above, a grantee may work with an affordable housing developer (non-for profit or for-profit) to apply for an affordable housing project under one of the following programs: MHDC LIHTC housing project; USDA RD 515 rental housing for seniors or multi-family units; or promote financial counseling and down payment assistance programs for LMI families.

Document each action that is taken by a grantee to address a fair housing impediment identified in the statewide study. A grantee may distribute and post flyers at city hall or county courthouse, post informational notices, make available informational brochures about services to address identified impediments, post online notices of workshops or forums to educate the public or a sector of the public about how to address a specific impediment(s). For example, a grantee may schedule an educational forum with realtors, landlords, bankers, or citizen organizations and invite a fair housing speaker from the Missouri Commission on Human Rights or HUD. Maintain documentation of all official actions taken by a grantee in the project file.

For additional resource information to address impediments or to affirmatively further fair housing go to: Metropolitan St. Louis Equal Housing and Opportunity Council, http://ehocstl.org

## B. Grantee's Annual Official Action to "Affirmatively Further Fair Housing"

Title I, Sec. 104(b) (2) of the Housing and Community Development Act of 1974, as amended, requires that recipients of HUD funds, including states and their grantees, to affirmatively further fair housing. This typically takes the form of promoting and publicizing information about the Fair Housing laws to the citizens of your jurisdiction. This may be accomplished by providing forums, literature, and posters to inform and to educate your citizens and stakeholder businesses about the fair housing rights and laws.

Below are examples of annual official actions for a grantee to select and implement. Adoption of a Fair Housing Ordinance is a program requirement; therefore, something in addition to adopting an ordinance should be done as an annual fair housing furtherance action.

Suggested Fair Housing Furtherance Actions:

Provide Fair Housing Educational Materials: Develop and display informational materials to promote local awareness of fair housing laws and guidelines, such as, fair housing pamphlets, fair housing logo or link on official website, fair housing policy statements, etc. Access flyers, pamphlets, PSAs, and other resources from the Missouri Human Rights Commission's website at: https://labor.mo.gov/discrimination and from the National Fair Housing Alliance at: https://nationalfairhousing.org

1. Develop Affordable Housing: Extend affordable housing outside areas of minority concentration with programs such as a Rural Development 515 housing complex, a Missouri Housing Development Commission LIHTC housing development, or a mixed income housing development.
2. Commemorate National Fair Housing Month. April is designated as Fair Housing Month to commemorate the Fair Housing Act being signed into law on April 11, 1968. Many grantees adopt and publish a Fair Housing Month proclamation to commemorate this event. You may also host an educational program and invite a HUD fair housing staff member to speak, or a local fair housing organization speaker.
3. Publicize Changes in the Fair Housing Law. Post and publish any revisions or changes to local, state, or federal Fair Housing ordinances, resolutions, regulations, or policies.

4. Post Fair Housing Posters. Display fair housing posters in public places throughout your community, such as at city hall, the county courthouse, public libraries, housing complexes, community centers, senior centers, religious facilities, lending institutions, etc.

5. Encourage Citizen Participation. Promote active citizen participation in community efforts to improve and make known fair housing policies.

6. Encourage & Promote Equal Housing Opportunities. Offer outreach, counseling, and referral services to aid LMI persons residing in areas of minority concentration or concentrated areas of poverty to find assisted and non-assisted housing outside those concentrated areas.

7. Support Habitat for Humanity's Housing Programs. Facilitate the development of a local Habitat for Humanity chapter in your jurisdiction, or support activities of an existing local Habitat chapter. A list of active chapters in Missouri can be accessed through the national HFH website at: https://www.habitat.org/

8. Promote Affordable Home Buying Programs & Lending Practices. Develop down payment assistance programs for LMI households. Partner with area lenders, realtors, religious organizations, and community organizations to promote various affordable housing programs.

9. Educate Housing Partners. Provide home buying, credit counseling, home maintenance, financial literacy, and budgeting classes with prospective homebuyers and renters. Educate, members of housing-related industries, such as, real estate agents, mortgage lenders, home builders, and home insurance companies regarding fair housing rights, laws, and responsibilities.

10. Educate Community Organizations and Citizen Groups. Develop public information and educational programs to provide fair housing information to the community. Recipients can focus these programs on the following types of groups and organizations:

    - Citizen groups concerned with housing issues, such as, local or area fair housing groups, tenant associations, unions, voter leagues, etc.
    - Organizations representing specific population groups such as minorities, women, LGBT groups, disabled citizens, elderly citizens, families with children, and groups or classifications of citizens that historically are known to have suffered from discriminatory practices now and in the past.
    - Stakeholder groups affected by an identified impediment to fair housing choice, such as a disability, veterans, or familial status rights organization.

    Methods which can be used to inform and involve the public in Fair Housing awareness efforts may include (but not be limited to) the following:

    - Sponsoring Fair Housing educational forums.
    - Canvassing the community through a mail campaign, which could involve inserting a fair housing flyer or survey in local utility bills or tax statements
    - Placing a public service announcement on local radio and/or a community cable television access channel; PSAs are available from both the MCHR & HUD.
    - Sponsoring a Fair Housing poster or essay contest in local schools
    - Encourage local lending institutions, realtors, insurers, and other housing-related service providers to include the Fair Housing logo and policy statements in all advertising done through the internet or community information networks, local cable access channels, etc.

11. Survey the Community on Housing Concerns: Use local resources to assess public opinion about the status of fair housing in the community. Suggested contacts for this effort would include:

- Fair housing organizations
- Public/private community centers and social service facilities
- Civil rights advocacy organizations
- LGBTQ organizations
- Organizations representing minorities, women, senior citizens, persons with disabilities, and other classes of persons protected under the Fair Housing Act.

12. Partner with Fair Housing Organizations. Provide funding for local fair housing organizations and assist with their development.
13. Assemble an inventory of available land suitable for the development of affordable and assisted housing to market to affordable housing developers.

**Additional Resource for posters, brochures, studies and other helpful information:**

https://www.hud.gov/program_offices/fair_housing_equal_opp/marketing

National Fair Housing Alliance
1331 Pennsylvania Ave. NW
Washington, DC 20004

https://nationalfairhousing.org/
Phone: 202-898-1661

## C. Grievance Process

Grantees must establish a local grievance process for aggrieved persons to file a discrimination complaint. Within the context of the Missouri CDBG program, a civil rights discrimination complaint may only be based on one of the protected classes of: race, national origin, religion, color, sex, age (for employment only), handicap/disability (for employment & housing), or familial status regarding the denial of program-related benefits, employment, contracting, or fair housing practices. If a complaint arises, it should first be processed at the local level through the grantee's adopted grievance process. A copy of the grievance should be sent to DED. DED will wait for the local process to be completed. If a complaint is appealed to DED, the complaint/grievance will be forwarded to HUD, where it will be formally processed. CDBG grantees, including counties, are to have local policies in place that provides a procedure for processing Fair Housing complaints, under its adopted Fair Housing Ordinance or Fair Housing Resolution.

In addition to filing a grievance with the grantee, an aggrieved complainant has the right to file their grievance directly with the Missouri Commission on Human Rights or with HUD. If it is an employment discrimination complaint based on age or disability, it may be filed with either the Missouri Commission on Human Rights or with the EEOC. The addresses and contact information for these offices are listed below.

Civil Rights complaints relevant to the Missouri CDBG Program must allege discrimination based on race, national origin, religion, color, sex, age (employment only), handicap, or familial status pertaining to program-related benefits, employment, contracting, or fair housing efforts.

- When a written complaint is received by a grantee, it may be resolved at the local government level under the adopted Fair Housing ordinance or resolution procedure; or the complainant may send it directly to DED, the Missouri Commission on Human Rights, or to HUD.

- All complaints received by DED will be referred to the grantee's designated local intake officer for processing and resolution. If the matter is not resolved at the local level, DED will refer the complaint to the Missouri Commission on Human Rights, or, to the appropriate HUD office:
- Community Development Block Grant Program

MO CDBG Program
Missouri Department of Economic Development
Harry S Truman Building
301 West High Street, Room 770
PO Box 118
Jefferson City, Missouri 65102
Telephone: (573) 751-3600; Fax: (573) 526-4157

Missouri Commission on Human Rights (MCHR)
P.O. Box 1129
3315 W. Truman Boulevard, Suite 212
Jefferson City, MO 65102-1129
Email: mchr@labor.mo.gov
Website: www.labor.mo.gov/mohumanrights
Phone: 573-751-3325
Fax: 573-526-5090
Toll Free Discrimination Complaint Hotline:
877-781-4236

Relay Missouri
Toll Free /Voice: 866-735-2466
TDD: 800-735-2966

*MCHR Field Offices:*

St. Louis: MCHR
111 North 7th Street, Suite 903
St. Louis, Missouri 63101-2100
Phone: 314-340-7590
FAX: 314-340-7238

Kansas City: MCHR
1410 Genessee, Suite 260
Kansas City, MO 64102
Fax: 816-889-3582

U.S. Equal Employment Opportunity Commission (EEOC) Missouri Offices:

(1) EEOC St. Louis District Office
Robert A. Young Federal Building
1222 Spruce Street, Room 8.100
St. Louis, Missouri 63103
(800) 669-4000

(2) EEOC Kansas City Area Office
Gateway Tower II
400 State Ave., Suite 905
Kansas City, KS 66101
(800) 669-4000

How to File a Housing Discrimination Complaint:

If you believe you have experienced (or are about to experience) housing discrimination, you should contact HUD's Office of Fair Housing and Equal Opportunity for help at (800) 669-9777. You may also download the Apple App, Android App, or file a housing discrimination complaint online. HUD will thoroughly review your allegation to determine if the claims you raise are jurisdictional under the Fair Housing Act and the Equal Access Rule.

Additionally, if you have experienced (or are about to experience) housing discrimination in a HUD-funded program or when seeking a HUD-insured mortgage, you should contact your local HUD office for assistance with alleged violations of HUD program regulations.

## SECTION 2: CDBG CONTRACTING OPPORTUNITIES

CDBG funded grantees must ensure that discrimination does not occur in the solicitation and award of contracts through the development of nondiscriminatory advertising and the direct solicitation of Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), and Section 3/ Disadvantaged Business Enterprise (DBE) contractors. Grantees must also include civil rights certifications and provisions in their contracts, and follow a procurement evaluation criteria to ensure free, fair, and open competition for all CDBG funded project contracts.

Grant recipients and contractors are required to make affirmative efforts to employ minorities, women, and Section 3 individuals for project related jobs. This is accomplished by the grantee advertising any project related job in local newspapers, periodicals, and with organizations that serve minority and women communities as part of their procurement process.

### Reporting of MBE/WBE and Section 3 Compliance Efforts

To ensure accurate documentation on a timely basis, the Missouri CDBG program has developed a Contract Procurement Record form for use in maintaining an internal record of all of your project's contracts. That form may be found on the DED website under CDBG Forms. It can be a helpful tool for completing both the Section 3 Summary Report and the Contract and Subcontract Activity Report (CSAR). Instructions for completing those reports are found at the end of each report form.

The following two report forms must be completed and ***submitted upon project closeout unless otherwise stated to DED:***

1) Contract and Subcontract Activity Report (CSAR) – Submit at Project closeout to DED; and,
2) Section 3 Summary Report – Submit upon project closeout unless otherwise stated to DED.

Section 3 Objectives and Reporting:

https://ded2.mo.gov/cdbg/reporting/section-3

https://www.hud.gov/program_offices/field_policy_mgt/section3

https://www.hudexchange.info/trainings/section-3/

- Section 3 is a provision of the Housing and Urban Development Act of 1968. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. Refer to 24 CFR 135 for the Section 3 regulations.
- "Best efforts" and "greatest extent feasible" are statutory terms, used in the statute in different contexts. As such, HUD uses both terms to track compliance, and there are many ways to interpret the language. Traditionally, HUD has used the terms interchangeably, as referenced in the statute, and will

continue to be consistent with the statutory language. *See* 12 U.S.C. 1701u(b)-(d). These terms are integral to the statutory intent and provide flexibility, rather than administrative burden, to grantees or recipients of HUD funding.

- HUD acknowledges that some perceive "best efforts" to be the more rigorous standard, while others perceive "greatest extent feasible" to be the more rigorous standard. HUD has determined not to define the difference between these two terms but rather to increase the emphasis on outcomes as a result of these efforts. A recipient's reported results will be compared to the outcome metrics defined in the benchmark notice. HUD program staff will evaluate the level of effort expended by those recipients that fail to meet the benchmark safe harbor, and thus will ensure that the statutory terms are being properly enforced. HUD included a list of examples in the regulation at 24 CFR §§ 75.15 and 75.25, including engagement in outreach efforts to generate job applicants who are Targeted Section 3 workers, providing training or apprenticeship opportunities, and providing technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

Section 3 Compliance is applicable to a Grantee's Project when:

Section 3 projects are housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of $200,000. The threshold is $100,000 where the assistance is from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 or 1701z–2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 et seq.,; and/or the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.).

The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. The requirements of Part 75 apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

A recipient of Section funding is considered to be any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization. It does not include contractors or any intended beneficiary under the HUD program to which Section 3 applies, such as a homeowner or a Section 3 worker.

Professional service contracts for non-construction services that require an advanced degree or professional licensing are not required to be reported as a part of total Section 3 labor hours. However, this exclusion does not cover all non-construction services.

However, professional services staff labor hours are permitted to be reported and PHAs will be given credit for reporting opportunities created for professional services by including professional services labor hours in

the numerator, and not in the denominator, of the reported outcome ratios. The reporting structure in the rule allows a recipient to count any work performed by a professional services Section 3 worker or Targeted Section 3 worker as Section 3 labor hours and as Targeted Section 3 labor hours (i.e., in the numerator of the calculation), even when the professional services as a whole are not counted in the baseline reporting (i.e., in the denominator of the calculation). The effect of this reporting structure is to give a recipient a bonus if they are able to report Section 3 hires in the professional services context.

Section 3 is not an entitlement program; therefore, employment and contracts are not guaranteed. Low- and very low-income individuals and Section 3 business concerns must be able to demonstrate that they have the ability or capacity to perform the specific job or successfully complete the contract that they are seeking.

As provided in 2 CFR 200.318, contract awards shall only be made to responsible contractors possessing the ability to perform under the terms and conditions of the proposed contract. In order to meet the requirements of Section 3 and Federal and state procurement laws, recipient agencies must develop procedures that are consistent with all applicable regulations.

**Certain recipient agencies (or sources of HUD financial assistance) are required to comply with Section 3**. For public housing financial assistance, Public Housing Authorities (PHAs), regardless of size or number of public housing units, are required to comply with Section 3 and its reporting requirements. However, small PHAs (fewer than 250 units) are permitted to report qualitatively as permitted under 24 CFR § 75.15(d). Some examples of those qualitative efforts are listed in the answer to Question 15.

As previously stated, Section 3 also applies to projects with **more than $200,000** in funding from housing and community development financial assistance programs. The following is a list of examples of such funds:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership
- Housing Trust Fund (HTF)
- Neighborhood Stabilization Program Grants (NSP 1, 2 & 3)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Emergency Solutions Grants (ESG)
- University Partnership Grants
- Economic Stimulus Funds
- 202/811 Grants
- Lead Hazard Control Grants ($100,000 threshold; see Question 12, above, in this part I of these FAQs)
- Healthy Homes Production Grants ($100,000 threshold; see Question 12, above, in this part I)
- Rental Assistance Demonstration (RAD) (see most recent RAD Notice, found through HUD's RAD

website, www.hud.gov/rad/)

*Note: The requirements of Section 3 typically apply to recipients of HUD funds that will be used for housing construction, rehabilitation, or other public construction. Contact Section3@hud.gov to determine applicability to a particular project/activity.

**Section 3 Worker**

- A Section 3 worker is any worker who currently fits, or when hired within the past five years fit, at least one of the following categories, as documented:
    - The worker's income for the previous or annualized calendar year is below the income limit established by HUD;
    - The worker is employed by a Section 3 business concern; or
    - The worker is a YouthBuild participant.

**Targeted Section 3 Worker**

- A Section 3 targeted worker for Public Housing Financial Assistance projects is a Section 3 worker who:
        - is employed by a Section 3 business concern; or
        - currently fits or when hired fit at least one of the following categories, as documented within the past five years:
            - A resident of public housing or Section 8-assisted housing;
            - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
            - A YouthBuild participant.
- A Section 3 targeted worker for Housing and Community Development Financial Assistance projects is a Section 3 worker who:
- is employed by a Section 3 business concern; or
- currently fits or when hired fit at least one of the following categories, as documented within the past five years:
    - Living within the service area or the neighborhood of the project, as defined in 24 CFR § 75.5; or
    - A YouthBuild participant.

**Section 3 Business Concern**

- A Section 3 business concern is a business that meets at least one of the following criteria, documented within the last six-month period:

- At least 51 percent owned and controlled by low- or very low-income persons;

- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

- A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

**Low-income and very low-income Limits**

- Low- and very low-income limits are defined in Section 3(b) (2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the area median individual income. HUD income limits may be obtained from: https://www.huduser.org/portal/datasets/il.html.

**Service Area**

- "Service area" or the "neighborhood of the project" means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

**YouthBuild**

- YouthBuild is a community-based pre-apprenticeship program that provides job training and educational opportunities for at-risk youth ages 16-24 who have previously dropped out of high school.
- YouthBuild participants learn vocational skills in construction, as well as in other in-demand industries that include health care, information technology, and hospitality. Youth also provide community service through the required construction or rehabilitation of affordable housing for low-income or homeless families in their own neighborhoods.
- The Division of Youth Services within the Employment and Training Administration's Office of Workforce Investment at the U.S. Department of Labor administers the YouthBuild program. Each year, more than 6,000 youth participate in approximately 210 YouthBuild programs in more than 40 states. More information can be found here: https://www.dol.gov/agencies/eta/youth/youthbuild.

The main source for searching for Section 3 businesses is the HUD Section 3 Business Registry. It may be found at: https://portalapps.hud.gov/Sec3BusReg/BRegistry/SearchBusiness

NOTE: The State's list of Disadvantage Businesses Enterprises (DBE) businesses may be used to supplement but not substitute for DED's Section 3 procurement solicitation requirements. The state's DBE list may be found on the Missouri Department of Transportation website at:

https://www6.modot.mo.gov/MRCC/Home/PublicSearch

- Section 3 does differ from the Minority Business Enterprise/Women Business Enterprise programs. Section 3 is both race and gender neutral. The standards provided under this regulation are based on income-level and location. Section 3 regulations were designed to encourage recipients of HUD funding to direct employment, training, and contracting opportunities to low-income individuals, and the businesses that employ these persons within their community regardless of race and/or gender.
    - Minority Business Enterprise (MBE) means a business enterprise that is at least 51% owned and controlled by one or more minority or socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or other similar causes.
    - Women's Business Enterprise (WBE) is an independent business concern that is at least 51% owned and controlled by one or more women who are U.S. citizens or Legal Resident Aliens; whose business formation and principal place of business are in the U.S. or its territories; and whose management and daily operation is controlled by a woman with industry expertise.
    - Section 3 standards are race and gender neutral. A minority and/or woman owned business enterprise must provide evidence that it meets at least one criterion of a Section 3 business concern outlined above in order to receive preference under Section 3. However, the Department anticipates that Section 3 will serve to support, and not impede, contract opportunities for minority business enterprises.
    - The MBE designation may provide preferences promoted by other statutes and regulations, such as goals for MBEs and other socially and economically disadvantaged businesses.
    - To learn more about the Minority Business Enterprise and Women Business Enterprise programs, please contact HUD's Office of Small and Disadvantaged Business Utilization at 202-708-1428, or visit their website, located at: https://www.hud.gov/program_offices/sdb.

NOTE: Grantees are required to file a Section 3 Report at project closeout with DED unless except for DR projects which report quarterly.

- The Section 3 reporting form is available on DED's CDBG forms website.

**Compliance with MBE, WBE, and DBE/Section 3 Solicitation Procurement Requirements**

Project Related Employment: Grantees must follow equal opportunity and affirmative action guidelines when procuring contractors, and through their personnel office when hiring individual staff for your CDBG- funded project. For the latter, please refer to Section 4 Employment Opportunities in this chapter.

Direct Solicitation Lists for Contract Procurement: Develop a list of minority and female owned, and Section 3/DBE owned businesses that are to be notified of bid opportunities and to be directly solicited to bid on your CDBG project contracts. This requirement applies to both construction and professional services procurement. Below are sources to use to develop a list for direct solicitation of minority, women, and Section 3/DBE contractors:

a) Missouri Office of Administration Office of Equal Opportunity: https://oeo.mo.gov/ Toll Free (877)259-2963; 573/751-8130

b) Missouri Department of Transportation: (888)275-6636; https://www.modot.org/welcome-external-civil-rights;

c) HUD Section 3 Business Registry https://portalapps.hud.gov/Sec3BusReg/BRegistry/SearchBusiness

d) Minority Contractors Association St. Louis, MO: www.mokanccac.org
(314)454-9675; 4666 Natural Bridge; St. Louis, MO 63115

e) Minority Contractors Association Kansas City MO: (816)924-4441

3200 Wayne, Ste. 202, Kansas City, MO 64109; minoritycontractors@mca-gkc.org

Notify MBE, WBE, and Section 3/DBE firms of Contract Opportunities: This can be done through direct solicitation of firms, informing MBE & WBE contractor organizations, advertising announcements in minority newspapers, and/or sending bid or RFP information directly to disadvantaged business (DBE) concerns. It is essential that all bid notices, inclusive of affirmative action efforts, be distributed in a timely fashion to all contractors that are directly solicited. Refer to the Procurement Chapter of this manual for the requirements regarding advertising and the direct solicitation of bids and RFPs for CDBG funded projects. Please refer to 2 CFR 200.321 Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms, for guidance.

Publication Requirements - Section 3 and EO Certification and Provisions: Insert applicable Section 3/DBE and equal opportunity provisions and EO language on the face of the bid documents and RFPs (refer to the Contract Management Chapter for the detailed provisions and language). For example, the cover of the bid document and any advertisement should read, "The City/County of (Name) Is An Equal Opportunity Employer and Encourages MBE, WBE, and DBE/Section 3 Contractors to Bid"

Section 3 Bidder Intent to Comply Submission: Grant recipients shall require all covered bidders to submit their Section 3 bidder intent to comply for compliance with Section 3.

These include the following minimum Section 3 target goals:

a. Your Section 3 reporting goals depend on the type of assistance you are receiving, whether public housing financial assistance or housing and community development financial assistance.

b. For public housing financial assistance, the benchmark for Section 3 workers is set at *25 percent* or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. The benchmark for Targeted Section 3 workers is set at *5 percent* or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year. This means that the *5 percent* is included as part of the *25 percent* threshold.

c. For housing and community development financial assistance projects, the benchmark for Section 3 workers is set at *25 percent* or more of the total number of labor hours worked by all workers on a Section 3 project. The benchmark for Targeted Section 3 workers is set at *5 percent* or more of the total number of labor hours worked by all workers on a Section 3 project. This means that the *5 percent* is included as part of the *25 percent* threshold.

For those employers who do not track labor hours in detail through a time-and-attendance system, HUD does not require they acquire such a system. Instead, they may provide a good faith assessment of the labor hours for a full-or part-time employee.

Recipients will be considered to have complied with the Section 3 requirements and met the safe harbor, in the absence of evidence to the contrary, if they certify that they have followed the required prioritization of effort and met or exceeded the applicable Section 3 benchmarks.

If a recipient agency or contractor does not meet the benchmark requirements but can provide evidence that they have made a number of qualitative efforts to assist low- and very low-income persons with employment and training opportunities, the recipient or contractor is considered to be in compliance with Section 3, absent evidence to the contrary (i.e., evidence or findings obtained from a Section 3 compliance review).

| | Labor Hours of Project | Calculated Percentage | Safe Harbor Benchmark Met<br>Yes or NO |
|---|---|---|---|
| Total Labor Hours of Project | | | |
| Section 3 Target Worker Hours | | | |
| Section 3 Worker Hours | | | |

Recipients will be considered to have complied with Section 3 requirements, in the absence of evidence to the contrary, if they meet all benchmark goals and certify compliance with prioritization requirements found in 24 CFR § 75.9 or §75.19. However, if subsequent HUD enforcement activities reveal that the recipient has failed to comply with the recipient responsibilities set forth at 24 CFR§75.13 or §75.23, this compliance determination may be rescinded.

If reporting indicates that the agency has not met the Section 3 benchmarks, the agency must report ina method prescribed by HUD program offices on the qualitative nature of its activities and those its contractors and subcontractors pursued per 24 CFR § 75.15(b) and § 75.25(b).

Such qualitative efforts may, for example, include but are not limited to the following:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, and childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3

business concerns.

- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act
- Promote the use of HUD's Section 3 Business Registry and HUD Opportunity Portal

Document Section 3 and EO Compliance: Recordkeeping requirements for recipients are found at 24 CFR § 75.31. Recipients are required to maintain documentation to demonstrate compliance with the regulations and are responsible for requiring their contractors/subcontractors to maintain or provide any documentation that will assist recipients in demonstrating compliance, including documentation that shows hours worked by Section 3 workers, Targeted Section 3 workers, and any qualitative efforts to comply with Section 3. Examples of documentation can be found in 24 CFR §75.31. Maintain supporting documentation that reflects the recipient's Section 3 compliance activities, along with affirmative action and equal opportunity efforts in the areas of employment, program benefits, contracting, and housing activities. Maintain direct solicitation, advertisements, and procurement records.

Contractor Section 3 Compliance: Monitor contractor and subcontractor compliance with applicable MBE/WBE and Section 3 provisions.

a. Contractor Compliance and Reporting: Obtain information from prime contractor regarding its Section 3 compliance goals at the beginning of the project. After the project's construction is completed, the grant administrator must obtain the Section 3 accomplishments from the prime contractor for Section 3 compliance. That final Section 3 information should be obtained prior to making the final payment to the contractor.

b. The Section 3 Report form may be found in the contract documents in the Contract Management Chapter of this manual.

c. The Section 3 Summary Report form and instructions may be found in the appendix of this chapter and on the DED CDBG forms website. It must be submitted to DED upon closeout or as otherwise stated in the DR program.

## SECTION 3: Project Contract Reporting

### Reporting of MBE/WBE and Section 3 Compliance Efforts

To ensure appropriate documentation on a timely basis, the CDBG program has developed a Contract and Subcontract Activity Report for use in maintaining a record of efforts to involve target group (MBE/WBE and Section 3) businesses in a project

The Contract and Subcontract Activity Report, which must be submitted to DED upon project closeout or as otherwise stated for project activities occurring during the project period. Instructions for completing the report are found on the back of the report form.

The Section 3 Summary Report form is due at project closeout unless otherwise stated. You may find the Section 3 Summary Report Form on the DED CDBG Forms website.

NOTE: On and after November 30, 2020, Section 3 regulations codified at 24 CFR Part 135 (the old rule) have not applied and will not apply to new grants, commitments, contracts, or projects. Contracts executed or projects for which assistance or funds were committed prior to November 30, 2020 are still required to adhere to the requirements of the old rule. Recipients of such assistance or funds will still be expected to maintain records of Section 3 statutory, regulatory, and contractual compliance but will no longer be required to report Section 3 compliance to HUD in SPEARS.

HUD does not require funding recipients to change or alter contracts that were in place prior to the new Section 3 requirements becoming effective on November 30, 2020.

Projects for which assistance or funds are committed between November 30, 2020 and July 1, 2021 are subject to the new Section 3 regulations found in 24 CFR part 75, and HUD expects that funding recipients will begin following this final rule's requirements for new grants, commitments, and contracts. Recipients will be expected to maintain records of statutory, regulatory, and contractual compliance with Section 3 for these projects but will not be required to report to HUD on the requirements found in 24 CFR part 75.

During the transition period between November 30, 2020 and July 1, 2021, recipients are expected to plan and revise processes, systems, and documents to comply with the new rule's requirements. During this time, funding recipients are still required to comply with Section 3’s statutory requirements by ensuring that, to the greatest extent feasible, recipients continue to direct economic opportunities generated by certain HUD financial assistance to low- and very low-income persons and businesses that provide economic opportunities to low- and very low-income persons.

Recipients and employers should use this time to update policies and procedures for tracking labor hours and other requirements to ensure compliance with the new rules for projects for which funds are committed on or after July 1, 2021.

MISSOURI
Department of Economic Development

# CONTRACT AND SUBCONTRACT ACTIVITY – ANNUAL REPORT DUE ON OCTOBER 2ND

| 1. Grantee | | 2. Location (Street, City, State, Zip Code) | | |
|---|---|---|---|---|
| 3. Grant Number | 4. Name of Contact Person | 5. Phone Number (with area code) & Email | 6. Reporting Period<br>Oct. 1, 20__(Yr) – Sept. 30, 20__(Yr) | 7. Date Submitted: |

| 8. Grant Activity Number | 9. Amount of Contract/or Subcontract | 10. Date of Contract | 11. Ethnicity (Use # below) | 12. Hispanic (Yes/No) | 13. Female-Owned Business (Yes/No) | 14. Section 3 Business (Yes/No) | 15. Prime Contractor Employer ID No. | 16. Subcontractor Employer ID No. | 17. Contractor or Subcontractor Name and Address | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Name | Street or P.O. Box | City | State | Zip Code |
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HUD/CDBG Ethnic Numerical Designations:

1. White Americans
2. Black or African Americans
3. Native Americans
4. Hispanic Americans
5. Asian/Pacific Americans
6. Hasidic Jews

☐ Grantee and/or subgrantee did NOT award any project contracts during this Federal fiscal year.

## INSTRUCTIONS FOR COMPLETING

## CONTRACT AND SUBCONTRACT ACTIVITY REPORT (CSAR)

Instructions by Column and Box:

1. Grantee – enter the name of the unit of government submitting this report.
2. City Location – enter street, city, state, and zip code of grantee.
3. Enter DED project number for this CDBG grant.
4. Contact person – enter name of the person responsible for completing and submitting CSAR report for the grantee to DED
5. Enter phone number of contact person & their email address.
6. Enter the
7. Enter date the CSAR report is submitted to CDBG.
8. Grant Activity Number – enter applicable activity number from Funding Approval.
9. Amount of contract/subcontract – enter the exact dollar amount. **Make sure to report only amount of CDBG funds in this column.**
10. **Enter the date of contract award by grantee or date of execution of the contract by the grantee.**
11. HUD Ethnicity # Designation – enter the single numeric code (1 thru 6) which indicates the racial/ethnic character of the owner(s) and controller(s) of 51% or more of the business. When 51% or more is not owned and controlled by any single racial/ethnic category, enter the code that seems most appropriate. The ethnic designations must be used for subcontractors and prime contractors.
12. Hispanic – enter yes or no indicating whether or not the owner/controllers are of Hispanic origin. Yes would indicate a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
13. Female-Owned Business – enter yes or no indicating whether or not the business is female-owned. A female-owned business is one that is 51% or more owned or controlled by a female(s).
14. Section 3 Business – enter yes or no indicating whether or not the contract is with a Section 3 concern. A Section 3 business is one that is either 51% owned or controlled by a low-or very low-income persons; over 75% percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers; or a Business at least 51% percent owned and controlled by current public housing residents or residents who currently live in Section 8 housing.
15. Contractor Employer Identification (ID) Number – enter the Employer (IRS) number of the prime contractor as the unique identifier for the prime recipient of CDBG funds. **Note that the IRS number must be provided for each contract and subcontract awarded.**
16. Subcontractor Identification (ID) Number – enter the Employer IRS number of each subcontractor awarded a subcontract paid with CDBG funds. When a subcontractor's IRS number is provided in column 16, the respective prime contractor's IRS number must also be provided in column 15.
17. Contractor/Subcontractor Name and Address – enter this information for all firms receiving CDBG funded contracts or subcontracts. (The street address information needs to be listed only once per firm on the Contract & Subcontract Activity Report (CSAR).

# Section 3 Summary Report
Economic Opportunities for
Low- and Very Low-Income Persons

**U.S. Department of Housing and Urban Development**
Office of Fair Housing and Equal Opportunity

OMB Approval No. 2529-0043
(exp. 11/30/2010)

HUD Field Office:
Region VII KC, KS

See back of page for Public Reporting Burden statement

| 1. Grantee/Recipient Name & Address: (street, city, state, zip) | 2. FEIN & DED/CDBG Project No. & Award Date | 3. Total Amount of CDBG Award: |
|---|---|---|
| | 4. Contact Person: | 5. Phone: (include area code) |
| | 6. Fed Fiscal Yr Reporting Period: Oct 1, 20 ___ - Sept. 30, 20 ___ | 7. Date Submitted: |
| 8. Program Code: No. 8* | 9. Program Name: *CDBG State Administered | 10. Email address of Contact Person: |

**Part I: Employment and Training** (** Columns B, C, D and G are mandatory fields.)

| A<br>Job Category | B<br>Hiring or Contract Date | C<br>Number of New Hires | D<br>Number of New Hires that are Sec. 3 Residents | E<br>% of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents | F<br>% of Total Staff Hours for Section 3 Employees and Trainees | G<br>Number of Section 3 Trainees |
|---|---|---|---|---|---|---|
| Professionals | | | | | | |
| Technicians | | | | | | |
| Office/Clerical | | | | | | |
| Construction by Trade (List) Trade | | | | | | |
| Trade | | | | | | |
| Trade | | | | | | |
| Trade | | | | | | |
| Trade | | | | | | |
| Other (List) | | | | | | |
| **Total(s)** | | | | | | |

| **Construction Contractor(s):** | Contract Award Date | Amount of CDBG Contract Funds | Section 3 or DBE Contract: **Yes or No** | Amount of CDBG Section 3 Contract | Name of Section 3 Contractor or Sub |
|---|---|---|---|---|---|
| **1)** | | | | | |
| **2)** | | | | | |
| **Prof. Service Contract(s):** | Contract Award Date | Amount of Contract | Section 3 or DBE Contract: Yes or No | | |
| **1)** | | | | | |
| **2)** | | | | | |

**NOTE: Above, report any contract awarded to a DBE (Section 3) contractor, regardless of amount.**

☐ **Grantee/Subgrantee did NOT award any project contracts exceeding $100,000 during this Federal fiscal year; no new hires or Section 3 trainees.**

* **Program Codes**
1 = Flexible Subsidy
2 = Section 202/811
3 = Public/Indian Housing
A = Development,
B = Operation
C = Modernization
4 = Homeless Assistance
5 = HOME
6 = HOME-State Administered
7 = CDBG-Entitlement
*8 = CDBG-State Administered
9 = Other CD Programs
10 = Other Housing Programs



form **HUD-60002** (6/2001)
Ref 24 CFR 135

**Part II: Contracts Awarded**

1. Construction Contracts:

| | |
|---|---|
| A. Total dollar amount of all contracts awarded on the project | $ |
| B. Total dollar amount of contracts awarded to Section 3 businesses | $ |
| C. Percentage of the total dollar amount that was awarded to Section 3 businesses | % |
| D. Total number of Section 3 businesses receiving contracts | |

2. Non-Construction Contracts:

| | |
|---|---|
| A. Total dollar amount of all non-construction contracts awarded on the project/activity | $ |
| B. Total dollar amount of non-construction contracts awarded to Section 3 businesses | $ |
| C. Percentage of the total dollar amount that was awarded to Section 3 businesses | % |
| D. Total number of Section 3 businesses receiving non-construction contracts | |

**Part III: Summary**

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

____ Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contacts with community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.

____ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.

____ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.

____ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.

____ Refer grantees to HUD Section 3 Business registry and MODOT DBE contractor website.

____ Circulated construction bids and non-construction RFPs to area Community Action Agency office; area Rural Development housing complex office; and, area Workforce Investment Board office.

____ Other; describe below.

NOTE: Complete this Section 3 Summary Report form if grantee received a CDBG grant award from DED in excess of $200,000.

NOTE: For contract amounts, only report amount of CDBG funds.

NOTE: If no contracts were awarded during Federal fiscal year, check box at bottom of page 1.

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u., mandates that the Department ensure that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as a self-monitoring tool. The data is entered into a data base and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

# Instructions for Completing Section 3 Summary Report

*ONLY report on contracts awarded during current Federal Fiscal Year*

**Instructions for Completing Boxes 1 – 10:**

**Box 1. Enter name of Grantee, street address, city, state, and zip code.**
**Box 2. Enter Federal Employee Identification Number, DED/CDBG Project No. & Date of Grant Award.**
**Box 3. Enter total amount of CDBG grant awarded to grantee - from DED funding approval.**
**Box 4. Enter full name of project's CDBG Grant Administrator.**
**Box 5. Enter phone number of project's CDBG Grant Administrator.**
**Box 6. Enter current Federal fiscal year reporting period.**
**Box 7. Enter the date the Section 3 Report is emailed to DED.**
**Box 8. No entry required.**
**Box 9. No entry required.**
**Box 10. Enter the email address of project's CDBG grant administrator.**

- **A Section 3 Report is required from all grantees that was awarded a CDBG grant of $200,000+**
- **In regard to those grant awards, the grantees are required to report contractor and/or subcontractor information for all contracts of $100,000+ that were paid with CDBG funds.**
- **NOTE: Report contractor and subcontractor information for any contract awarded to a Section 3 or DBE contractor or subcontractor regardless of the dollar amount of that contract**
- **If the grantee did not award any contracts that exceeded $100,000+ during the federal fiscal year reporting period or no "new hires," check the box at the bottom of the first page to indicate such.**

**Part I: Employment and Training:**

- **Report any "new hires" by the grantee, contractor, subcontractor, or professional service provider that were hired in order to complete the contracted work for the funded CDBG project.**
- **Complete Part I whether or not a grantee or a grantee's contractor had to hire any "new" employee(s) to enable them to complete their contracted work for the CDBG funded project.**
- **Columns B, C, D, and G are mandatory.**
- **If there were "no" new hires for the project, put -0- in the boxes on the "Totals" line.**

**Contract Reporting:**

- **Enter construction contractor(s) information. For "Contract Award Date," enter month & year.**
- **Enter non-construction/professional service contractor information; and, month & year of contract award.**
- **Report all contracts awarded to DBE/Section 3 contractor(s) regardless of the amount of the contract.**

**Part II: Contracts Awarded:**

- **If the grantee's project has a Section 3 or DBE contractor, enter the information for Section 3/DBE regardless of the dollar amount of the contract(s) or subcontract(s).**
- **Part II (1): Report Construction Contractor information for contractors and subcontractors paid with at least $100,000 in CDBG funds.**
- **Part II (2): Report non-construction/professional service contract information for contractors and subcontractors paid with at least $100,000 in CDBG funds.**

**Part III: Summary**

**Indicate grantee's efforts to comply with Section 3 requirements to the greatest extent feasible by:**

- **Check boxes that apply, and**
- **Describe grantee's additional specific efforts in writing under "Other."**

**Recipient Responsibilities**

Recipients are required to ensure their own compliance and the compliance of their contractors/subcontractors with the Section 3 regulations, as outlined at 24 CFR part 75. These responsibilities include but are not limited to the following:

Designing and implementing procedures to comply with the requirements of Section 3: Recipient agencies must take an active role in ensuring Section 3 compliance. The first step is implementing procedures to ensure that all parties, including residents, businesses, contractors, and subcontractors, comply with Section 3 and maintain records verifying that compliance.

Facilitating the training and employment of Section 3 workers: The recipient agency must act as a facilitator, connecting Section 3 workers to training and employment opportunities.

Facilitating the award of contracts to Section 3 business concerns: The recipient agency must also work to link developers and contractors with capable Section 3 business concerns. Additionally, recipient agencies, when necessary, may direct Section 3 business concerns to organizations that provide capacity-building training.

Ensuring Contractor and Subcontractor Awareness of and Compliance with Section 3 Benchmarks and responsibilities: The recipient agency is responsible for ensuring that contractors and subcontractors are aware of, and in compliance with, Section 3 requirements.

Ensuring Compliance and Meeting Numerical Benchmarks: Recipient agencies shall ensure compliance with Section 3 by assessing the hiring and subcontracting needs of contractors; regularly monitoring contractor compliance; assisting and actively cooperating with the Secretary of HUD in obtaining the compliance of contractors; penalizing non-compliance; providing incentives for good performance; and refraining from entering into contracts with any contractor that previously failed to comply with the requirements of Section 3.

Reporting Requirements: Recipient agencies must document all actions taken to comply with the requirements of Section 3 and report these activities either through the Section 3 Performance Evaluation and Registration System (SPEARS), for Public Housing financial assistance, or any reporting system designated by program areas overseeing other funding.

Recipient Responsibilities include posting Section 3 contract opportunities at https://hudapps.hud.gov/OpportunityPortal/.

Recipients should also ensure Section 3 Posters with a designated Section 3 coordinator at Section 3 covered project work sites.

Recipients should make sure their partners and contractors understand Section 3 requirements, as it is the recipient that is held accountable for meeting these requirements. Recipients should take every opportunity throughout the contracting process to inform potential bidders and selected contractors of their Section 3 obligations. It is recommended that at a minimum, these requirements be reviewed at the following stages of the contracting processes:

1. Bid solicitations and requests for proposals
2. Pre-bid meetings
3. Pre-construction conferences

- In order to successfully target Section 3 workers and businesses for employment and contracting opportunities, recipients must establish and maintain an effective Section 3 program. HUD has found that hiring a Section 3

coordinator or assigning one individual the responsibility of coordinating all Section 3 related activities is instrumental in reaching Section 3's employment and contracting goals.

- It is recommended that recipient agencies establish procedures to certify Section 3 workers and Section 3 business concerns for employment and contracting opportunities. Thereafter, they should maintain a list of eligible workers and businesses by skill, capacity or interest and contact them on a periodic basis when employment and contracting opportunities are available. Refer to the Section 3 regulations at 24 CFR § 75.15(b) and § 75.25(b) for a listing of qualitative efforts.

**Certification**

A prospective Section 3 worker or business concern can certify that they meet the eligibility requirements. The individual or business must contact the agency or developer from which they are seeking employment or contracting opportunities (e.g.., the PHA, city, or local government). They should identify themselves as a Section 3 worker, Targeted Section 3 worker, or Section 3 business concern and provide whatever documentation that the recipient agency requires under their certification procedures. Prospective Section 3 workers and business concerns may self-certify that they meet the requirements as defined in the regulations. HUD recipients, contractors and subcontractors may also establish their own system to certify Section 3 workers and business concerns.

**Section 3 Worker or Targeted Section 3 Worker**

There are many ways that a worker can be certified as either a Section 3 Worker or Targeted Section 3 Worker under 24 CFR part 75:

For a worker to qualify as a *Section 3 worker*, one of the following must be maintained:

(i) A worker's self-certification that their income is below the income limit from the prior calendar year;

(ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;

(iii) Certification from a PHA, or the owner or property manager of project-based Section 8- assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or

(v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a *Targeted Section 3 worker*, one of the following must be maintained:

**For Public Housing Financial Assistance projects:**

(i) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;

(ii) Certification from a PHA, or the owner or property manager of project-based Section 8- assisted

housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;

(iii) An employer's certification that the worker is employed by a Section 3 business concern; or

(iv) A worker's certification that the worker is a YouthBuild participant.

**For Housing and Community Development Financial Assistance projects:**

(i) An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

(ii) An employer's certification that the worker is employed by a Section 3 business concern; or

(iii) A worker's self-certification that the worker is a YouthBuild participant.

The documentation must be maintained for the time period required for record retentions in accordance with applicable program regulations or, in the absence of applicable program regulations, in accordance with 2 CFR § 200.334, Retention Requirements for Records (www.ecfr.gov/cgi-bin/retrieveECFR?n=se2.1.200_1334), which provides for retaining records for at least three years, as described in detail in that regulation..

**A PHA or recipient may report on Section 3 workers and Targeted Section 3 workers for five years from when their certification as a Section 3 worker or Targeted Section 3 worker is established.**

**Section 3 Worker**

HUD does not prescribe that any specific forms of evidence to establish Section 3 eligibility. Acceptable documentation includes, but is not limited to the following:

- Proof of residency in a public housing project; or
- Evidence of participation in the YouthBuild program.

**Section 3 Business Concern**

HUD does not prescribe that any specific forms of evidence be required to establish Section 3 eligibility. The business seeking the preference must be able to demonstrate that they meet one of the following criteria:

1. At least 51 percent owned and controlled by low- or very low-income persons;
2. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
3. A business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

**Public housing residents**

Public housing residents are **not** considered Section 3 workers regardless of their income.

To qualify as a Section 3 Worker, an individual must meet one of the following criteria:

1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD;
2. The worker is employed by a Section 3 business concern; or
3. The worker is a YouthBuild participant.

## SECTION 4: EMPLOYMENT OPPORTUNITIES

Grantee Employment & Contracting Requirements:

a) Hiring Discrimination Prohibited: Recipients of CDBG funds must not deny the opportunity for employment in any CDBG program or activity on the basis of race, color, religion, sex, disability, age, or national origin.

b) Employment Records: Statistical data must be collected on the number and percentage by race and gender of the personnel in any department, office, or agency of the unit of local government using CDBG funds to employ staff. For example, if the grant is used to pay a portion of a bookkeeper's salary in the accounting department of the city, then employment information must be available from that department when it is requested for DED's reporting requirements.

c) Section 3 Employment Requirement: The Section 3 regulation requires that grantees, "to the maximum extent possible," must ensure that lower income (LMI) residents in their community receive any employment or training provided by a CDBG project. Review Section 3 Objectives in this chapter under the topic, "Contracting Opportunities." Section 3 residents are residents whose household income meets the LMI income limits, or who meet the regulatory definition of a Section 3 business concern.

## SECTION 5: LGBTQ Equal Access Rule for HUD Programs

Part of HUD's mission is to give every person and family access to a safe, secure and affordable home including ensuring fair and equal access to housing for all Americans, regardless of their sexual orientation, gender identity or marital status. HUD is working to promote, strengthen and create opportunities for LGBTQ inclusion in its federal programs and regulations.

This rule is made applicable to the HUD CDBG Program at 24 CFR 570.3 and 24 CFR 5.403 under the definition of "family." In both regulations, the definition of "family includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status…" Under this equal access rule, HUD makes clear that CDBG funded projects must be administered in a non-discriminatory manner with respect to providing the project's services or assistance to all eligible beneficiaries, inclusive of LGBT individuals and families.

On February 3, 2012, HUD issued the first of three rules focusing on ensuring fair and equal access to housing for all Americans, regardless of their sexual orientation, gender identity, nonconformance with gender stereotypes, or marital status. The first rule, "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity" required that a determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the Federal Housing Administration shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status. The rule also included a definition for sexual orientation and gender identity, and expanded the definition of family in most of HUD's programs.

Building on that rule, on September 21, 2016 HUD issued a final rule, "Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs Rule" (Gender Identity Rule). The Gender Identity Rule ensures that all individuals have equal access to many of the Department's core shelter programs in accordance with their gender identity. Following what had previously been a practice encouraged by HUD, providers that operate single-sex projects using funds awarded through the Office of Community Planning and Development (CPD) are required by the rule to provide all individuals, including transgender individuals and other individuals who do not identify with the sex they were assigned at birth, with access to programs, benefits, services, and accommodations in accordance with their gender identity without being subjected to intrusive questioning or being asked to provide documentation. HUD's rule will require a recipient, sub recipient, or provider to establish, amend, or maintain program admissions, occupancy, and operating policies and procedures (including policies and procedures to protect individuals' privacy and security), so that equal access is provided to individuals based on their gender identity. This requirement includes tenant selection and admission preferences. The rule also updates the definition for sexual orientation and gender identity.

Lastly, on November 17, 2016 HUD issued a third final rule, "Equal Access to Housing in HUD's Native American and Native Hawaiian Programs-Regardless of Sexual Orientation or Gender Identity." This rule applied the same equal access provisions from the first rule to HUD's Native American and Native Hawaiian programs. Therefore, those programs are also required to make a determination of eligibility for housing that is assisted by HUD or subject to a mortgage insured by HUD in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

**SECTION 6: Limited English Proficiency (LEP) - Access to Grantee's CDBG Program:**

On August 1, 2000, the President issued Executive Order 13166. The purpose of the executive order was to ensure improved access to all federal programs for all individuals who, as a result of their "national origin," are limited in their English proficiency.

Grantees/recipients are prohibited from practicing discriminating on the basis of age, race, color, national origin, religion, sex, handicap, or familial status, when implementing their CDBG-funded project. This prohibition applies directly to the grantees, sub grantees, and to all project contractors or subcontractors. The project's beneficiaries must be identified and demographic data compiled for the grantee's project file to meet applicable HUD reporting requirements and to ensure that all potential project beneficiaries are treated equally during the course of the grantee's CDBG-funded project.

Project beneficiaries may not be discriminated against on either an individual or a group basis if they fall within one of the above protected groups/classes. In general, no one should be mistreated during the implementation of a CDBG funded project. Discrimination may not take place on either an individual or group basis, whether the beneficiary is a direct or indirect beneficiary of the project's activities. The grantee should have a process and a written grievance procedure in place to address any concerns from a potential project beneficiary or an actual project beneficiary.

In regard to project beneficiaries or potential project beneficiaries that have a limited English proficiency (LEP), a grantee is required to take steps to ensure full and meaningful access to the activities or services of the project. A grantee may take a number of steps to provide meaningful access for their CDBG- funded project. At the minimum, a grantee should provide a translator that speaks the language of the national origin of that individual or that family to explain the project and the steps they need to take to participate in the project.

If the LEP beneficiaries are significant in number of one or more national origin groups, e.g., 50 or more, the grantee should develop an implementation plan. The plan should involve the following 3 steps:

1. Conduct a Four-Factor Analysis of the population of that national origin group;
2. Develop a written Language Assistance Plan; and,
3. Provide appropriate language assistance.

Four-Factor Analysis:

1. Number: Determine the number of LEP persons in the population or project area to be served.
2. Frequency: with which LEP persons come into contact with the program, project, or service.
3. Importance: of the CDBG-funded service, project, information, program, or activity.

   Resources: organize the available financial and staff resources to provide assistance to the LEP persons to be served by the project.

When a determination is made that a plan should be implemented, the grantee should:

1. Assess the scope of service to be provided to the LEP persons or community by gathering population data on the national origin group to be served.
2. Work with local organizations of that LEP national origin group.

3. Find services that provide interpretation and translation. Adopt language assistance measures.

4. Grantee must assign LEP assistance responsibilities to staff or to their grant administrator.

Safe Harbor to Comply with LEP Requirements:

1. Written Translation in each language that constitutes 5% or 1000 persons, whichever is less, of the population of eligible persons to be served or likely to be encountered for the CDBG-funded project; or
2. If there are fewer than 50 persons in a language group that reaches the 5% trigger, then the grantee must provide written notice of the right to receive competent oral interpretation of the written materials;
3. There is **NO** Safe Harbor for oral interpretation. Reasonable availability is expected based on the four-factor analysis.

In conclusion, at the minimum, a grantee must develop access for interpretation/translation services for LEP persons, individuals and families to be served by the grantee's CDBG funded project in the language of their national origin.

This page provides documents created by HUD program offices printed in English and other languages.

https://www.hud.gov/program_offices/fair_housing_equal_opp/marketing

https://www.hud.gov/program_offices/fair_housing_equal_opp/limited_english_proficiency_0

**SECTION 7: SECTION 504 PROGRAM DISABILITY/ACCESSIBILITY COMPLIANCE**

**Section 504 Rehabilitation Act Compliance**

Section 504 prohibits discrimination on the basis of disability in any program or activity that receives federal financial assistance. This means, for example, that persons with disabilities may not be denied the opportunity to participate in a program or activity because of their disability; may not be required to accept a different kind or lesser program or service than what is provided to others without disabilities, and may not be required to participate in separate programs and services from those available to persons without disabilities, even if separate programs and services exist. In general, with respect to housing, a housing provider may not deny or refuse to sell or rent to a person with a disability, and may not impose application or qualification criteria, rental fees or sales prices, and rental or sales terms or conditions that are different than those required of or provided to persons without disabilities. Housing providers may not require persons with disabilities to live only on certain floors, or in one section of the housing. Housing providers may not refuse to make repairs, and may not limit or deny someone with a disability access to recreational and other public and common use facilities, parking privileges, cleaning or janitorial services, or any services which are made available to other residents without disabilities. Additionally, persons with disabilities may not be denied the opportunity to serve on planning or advisory boards because of their disabilities.

Missouri CDBG grantees are required by Federal law and program regulations to conduct a self-evaluation of accessibility to determine if their current programs, services, policies, and practices meet the requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA). This means that a CDBG program must be accessible to a person with any type of a disability accepted under the Act. A grantee must have a designated Section 504/ADA Coordinator.

**CDBG MODEL SECTION 504 SELF-EVALUATION**

**FOR SECTION 504/ADA ACCESSIBILITY & DISABILITY COMPLIANCE**

The following technical assistance questionnaire is separated into three sections.

- Grantees who have less than 15 full time employees need only complete Part I;
- Grantees that employ 15 or more full time employees are required to complete Part I, Part II, and Part III; and,
- **All grantees** are required to complete the relevant portions of this questionnaire and maintain this information in the Citizen Participation file for public review and on-site monitoring by CDBG field staff.

How many full time employees does the grantee have? _____

**Part I (To be completed by all grantees)**

1. Briefly, describe your community's programs and services, including their purpose, scope, activities, and participants. The following includes examples of public services you might provide that would be covered under the Act:
    a. Water and sewer service, or other municipal utilities such as electricity, natural gas, etc.
    b. Parks and Recreation programs
    c. Transportation infrastructure (streets, sidewalks, public transit, etc.)
    d. Provide a brief description of the various policies that direct the operation of the programs and services you listed. Identify any current exceptions, special provisions, or separate programs designed for persons with disabilities.
    e. Identify any program qualifications, eligibility, admission requirements, or licensing standards that an individual must meet that might negatively affect individuals with disabilities. For each item answered that appears to have a negative effect, include a description of action(s) planned to reduce or eliminate the disparate impact.
        a. Do you currently provide a qualified disabled individual the opportunity to participate in, or benefit from, the aid, benefit, or service you provide? Examples might include accessibility to the spectator seating area at the city's baseball field, or the rodeo arena at the county fairgrounds.
        b. Do you provide opportunities for participation or benefit to the disabled, equal to opportunities afforded the population at large?
        c. Do you avoid providing different or separate aids, benefits, or services to a qualified individual with a disability unless proven necessary to make them as effective as the aids, benefits, or services provided to others?
        d. Do you exercise due diligence to avoid assisting or contracting with any persons or entities that are known to discriminate based on disability?
        e. Do you allow qualified disabled individuals a full opportunity to participate in all local policy planning or advisory boards? This includes providing reasonable accommodations in the scheduling of time and/or location of meetings, use of auxiliary aids including guide dogs, etc.
    f. In the area of employment, describe your policies, practices, or procedures followed to ensure non-discrimination based on disability in:
        a. Public advertising of vacant positions and other job opportunities
        b. Processing and review of applications
        c. Testing and minimum requirements as a condition of employment

d. Interviewing, including responding to requests for accommodation and use of nondiscriminatory questions

e. Promotion/demotion, layoff/reinstatement, or transfer, including changes in compensation resulting from these actions

f. Job assignments/classifications and nondiscriminatory treatment by supervisory personnel

g. Access to benefits, including policies on use of vacation and sick leave, unpaid leave of absence, and compensatory time. Also include opportunities for training, attendance at conferences, or other supported activities, including recreational or social programs, health and insurance benefits, etc.

h. Process for considering a request for a reasonable accommodation on the job, including method of determining whether an individual with a disability is capable of performing the essential functions of a particular job with or without a reasonable accommodation

g. To insure that your communication with disabled applicants, participants, and members of the public are as effective as communications with non-disabled individuals, the grantee should address the following:

a. If any written materials are produced on a program or service, indicate whether the following alternative formats are provided:

| | | |
|---|---|---|
| 1. Audio tape | ☐ Yes | ☐ No |
| 2. Braille | ☐ Yes | ☐ No |
| 3. Reader | ☐ Yes | ☐ No |
| 4. Aide | ☐ Yes | ☐ No |
| 5. Mailed to home | ☐ Yes | ☐ No |
| 6. Large print format | ☐ Yes | ☐ No |
| 7. Interpreter | ☐ Yes | ☐ No |
| 8. Other assistance | ☐ Yes | ☐ No |

b. How would a disabled person learn about these auxiliary aids and services, and how could they request such assistance from you?

c. How will you ensure that meetings, hearings, and conferences are accessible for individuals with communication disabilities?

d. Do you currently offer TDD (telecommunication device for the disabled) access within your communications system?

e. Is 911 or E-911 emergency service offered within your jurisdiction? If so, is there a TDD connected to your system?

f. Do you have a toll-free phone number to access services and programs? If so, is it usable by persons with hearing impairments?

g. Do you have any public telephones located within your facilities? If so, is at least one phone hearing aid compatible?

h. If you determine that equally effective communication cannot be provided, you must include a statement in your self-evaluation explaining why the service, program, or activity would be fundamentally altered or result in undue financial and administrative burdens. You must also include a description of alternative actions that will be taken to provide the benefits or services to the maximum extent possible.

**Part II (To be completed by grantees with 15 or more employees)**

1. Do you have a policy regarding non-discrimination on the basis of disability that is in compliance with CDBG requirements? ☐ Yes ☐ No

If you answered No to this question, you may contact the CDBG office for a sample policy and initial notice. If you answered Yes to this question, have you published a notice regarding this policy? (Please include the publication date.)

h. Is a copy included in the appropriate project files with your self-evaluation and other related documentation? ☐ Yes ☐ No

i. Does your Notice of Nondiscrimination include the following:

   a. Contact information for your 504/ADA coordinator ☐ Yes ☐ No

   b. How to request auxiliary aids or other services ☐ Yes ☐ No

   c. That alternative formats are available ☐ Yes ☐ No

   d. That a complaint grievance procedure has been adopted ☐ Yes ☐ No

j. Do you have a grievance procedure? ☐ Yes ☐ No

If you answered No, then you must adopt one for successful completion of this project. You may contact the CDBG office for a sample copy.

If you answered Yes, does it include the following?

   a. A statement allowing an individual to submit a grievance in alternative formats ☐ Yes ☐ No

   b. A time limit for filing a grievance procedure ☐ Yes ☐ No

   c. Information on how to also file a complaint through appropriate State or Federal agencies ☐ Yes ☐ No

**Part III Section 504 Accessibility Transition Plan (to be completed by grantees with 15 or more employees)**

Please complete the attached Section 504 Transition Plan Outline for **EACH** publicly owned or publicly leased facility in your jurisdiction.

I have reviewed the above self-evaluation and believe it to be accurate as of this date.

_____ _____

Signature, Chief Elected Official Date

**SECTION 504 ACCESSIBILITY TRANSITION PLAN**

- Complete a Plan page for each publicly owned or publicly leased facility.

Date: _____

Name of person completing this form: _____

Title: _____

Phone Number: _____

E-Mail Address: _____

Name and address of facility:

Necessary structural changes (if needed):

Type of action to be taken:

Person responsible for overseeing action:

Projected start date for action:

Projected completion date for action:

Projected cost for completing project:

**Alternative Accessibility Standard Allowed Under Section 504 of the Rehabilitation Act of 1973**

On May 27, 2014, HUD announced an alternative accessibility standard to the Section 504 accessibility standard. It announced that developers may use the American with Disabilities Act (ADA) 2010 Standards for accessible design as an alternative to the Uniform Federal Accessibility Standards (UFAS) when undertaking new construction or alterations to existing structures on or after May 23, 2014, except for specific design provisions where the UFAS standard affords greater accessibility.

Under Section 504, HUD requires that its programs or activities that are paid for with HUD funds be readily accessible to and usable by persons with disabilities. Section 504 prohibits discrimination on the basis of disability in any program or activity that receives Federal financial assistance from the Department. Section 504 specifically prohibits the denial of benefits of, exclusion from participation in, or other discrimination against qualified individuals with disabilities in Federally assisted programs or activities because a grantee's facilities are inaccessible to or unusable by individuals with disabilities. The regulation requires that the design, construction, and alteration of projects meet physical accessibility requirements.

Prior to May 27, 2014, this meant compliance with the UFAS accessibility standards when using HUD funds. Now, it means that the 2010 ADA Standards may be used as an alternative, except where the UFAS standards provides for greater accessibility.

For more information go to: www.hud.gov

## SECTION 504/ADA (SAMPLE) GRIEVANCE PROCEDURE

The *City/County* of _____has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Americans With Disabilities Act (ADA) and implementing Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794). Section 504 states, in part, that "no otherwise qualified individual with a disability…..shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

1. Complaints should be addressed to _____, who has been designated by the *City/County* to coordinate Section 504/ADA compliance efforts. Complaints should be filed in writing or verbally, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.

2. A complaint should be filled within 10 days after the complainant becomes aware of the alleged violation. (Processing allegations of discrimination that occurred before this grievance procedure was in place will be considered on a case-by-case basis.)

3. An investigation, as may be appropriate, will follow a filing of a complaint. The Section 504/ADA Coordinator will be in charge of the investigation. These rules contemplate informal but thorough investigations that afford all interested persons and their representatives an opportunity to submit evidence relevant to a complaint.

4. A written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the Section 504/ADA Coordinator and a copy forwarded to the complainant no later than 30 days after its filing.

5. The Section 504/ADA Coordinator will maintain the files and records of the *City/County* relating to the complaints filed.

6. The complainant can request a reconsideration of the case in instances where he/she is dissatisfied with the resolution. The request for reconsideration should be made within 10 days to the *Mayor/Presiding Commissioner*.

7. Using the grievance procedure is not a prerequisite to the pursuit of other remedies, including the filing of a Section 504 or ADA-related complaint with the responsible Federal department or agency.

8. These rules will be construed to protect the substantive rights of interested persons, meet appropriate due process standards, and assure that the *City/County* complies with the ADA, Section 504 and all implementing regulations.

This procedure was adopted by the *City/County* of _____ on the _____ day of _____, 200__.

_____ _____

*Mayor/Presiding Commissioner* Attest

**SECTION 8: Participation of Religious and Faith Based Organizations**

Faith-based organizations are eligible, on the same basis as any other organization, to participate in any HUD program or activity.

## SUMMARY OF PROGRAM REQUIREMENTS

The following actions must be taken by all grantees, including counties, in the area of civil rights, fair housing, and equal opportunity:

1. Fair Housing Ordinance: Develop and enact a local fair housing ordinance that is substantially equivalent to current Federal fair housing law and provides an effective enforcement mechanism to which local resources are committed. DED has a model ordinance on our website for your use.
2. Excessive Force Prohibition Ordinance: Develop and enact local laws, or guarantee enforcement of existing policies, prohibiting the use of excessive force by law enforcement personnel, within the grantee's jurisdiction, against non-violent civil rights demonstrations. This policy should also include a prohibition against the physical barring of the entrance or exit to a facility or location that is the subject of such demonstration.
3. Annual Official Action to Address an Impediment: Plan and implement an official action on an annual basis, by the annual date of funding approval, to address one of the states identified impediment to fair housing choice within the grantee's jurisdiction.
4. Annual Official Action to Affirmatively Further Fair Housing: Plan and implement an official action on an annual basis, by the annual date of funding approval, to affirmatively further fair housing within the grantee's jurisdiction.
5. 
6. Section 504 Compliance: Applies to CDBG program accessibility, and project employment and contracting. Complete the Section 504 self-evaluation in this chapter. If the grantee has more than 15 employees, complete the Accessibility Transition Plan. Take the necessary local action(s) to create full accessibility to all publicly owned or leased facilities of the grantee. Reduce or eliminate any disparate impact to disabled citizens and meet the requirements of the ADA Act.
7. LGBTQ Equal Access Rule for HUD Program: Ensure compliance with HUD's equal access rule.
8. Limited English Proficiency Access to CDBG Program & Services: When implementing grantee's CDBG project, make translation services available to provide access to grantee's LEP residents.
9. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968, as amended, 12 U.S.C. 1701u: The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance.

   DED staff are able to provide sample ordinances/resolutions and technical assistance materials that can be used as a guide in developing and implementing appropriate local policies for housing or residents of the community in which the Federal assistance is spent.

## DED MONITORING

The DED staff will monitor for program compliance through site visits reviews to the project. Your DED field representative will use the Equal Opportunity/Civil Rights monitoring checklist, in the Program Administration Chapter of the CDBG Administrative Manual, to review grantee compliance.

Please have the following records in your project files:

- Grantee's annual official actions taken to address/reduce an impediments to fair housing choice
- Grantee's annual official actions taken to affirmatively further fair housing
- Provide list of MBE, WBE, and Section 3/DBE firms directly solicited to bid for construction and professional service contracts
- Equal opportunity statements on construction bid(s), RFP/RFQs, and related advertising
- Documentation for Section 3 Requirements
- Contractor & Subcontractor Activity Report (C&SAR) and Section 3 Reporting
- Limited English Proficiency (LEP) Access – provide contact information for area translator service.

****CIVIL RIGHTS HELPFUL HINTS****

- ❖ Develop a list of MBE, WBE, & DBE/Section 3 firms to directly solicit for the project's construction bids and professional services proposals/RFPs & RFQs
- ❖ Make sure your construction contractors complete the Section 3 contract forms
- ❖ Submit Contractor and Subcontractor Activity Report and Section 3 report with the project's close-out report unless otherwise stated
- ❖ Include civil rights certifications in all project contracts; in both construction and professional services contracts
- ❖ An activity to **affirmatively further fair housing** is not the same as an action intended to **reduce impediments to fair housing choice**. Therefore a grantee must do one official actions each year that their grant is open of both types of fair housing actions
- ❖ Grantees may use Missouri Commission on Human Rights Fair Housing website for examples of annual official actions to affirmatively further Fair Housing
- ❖ Comply with the Limited English Proficiency Requirements, when applicable to your project.
- ❖ Document all direct and indirect project beneficiaries on the Close-out Report forms and Quarterly Report forms.

NOTE:

- HUD notified state CDBG programs to follow the Analysis of Impediments to Fair Housing Choice; instead of the Fair Housing Assessment.
- DED will notify grantees and administrators of the new requirements after they are issued by HUD.
- Notify DED of any project related discrimination complaints (if any) and their resolution

## CIVIL RIGHTS LAWS, EXECUTIVE ORDERS, AND REGULATIONS

Civil Rights Laws & Executive Orders Applicable to the CDBG Program:

CDBG grantees must assure that all project activities will be administered in compliance with civil rights laws and regulations. The following are summaries of those parts of the civil rights laws, regulations, and executive orders that are applicable to CDBG funded projects:

1. Fair Housing Act – Title VIII of the Civil Rights Act of 1968, as amended. Prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing related transactions, based on race, color, national origin, religion, sex, disability, and familial status, including children, under the age of 18 living with parents, legal custodians, pregnant women, and people securing custody of children under the age of 18.

2. Sections 104(b)(2) and 106(d)(5)(B) of Title I of the Housing and Community Development Act of 1974, as amended – provides that CDBG funds may not be distributed to a grantee, local unit of government, until they certify that it will conduct and administer its program in conformity with the Civil Rights Act of 1964 and the Fair Housing Act, and that it will affirmatively further fair housing.

3. Executive Order 12892 – requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort.

4. Title VI of the Civil Rights Act of 1964, as amended – Prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance, here CDBG funds.

5. Section 519 of Public Law 101 - 144 (1990 HUD Appropriations Act) requires each unit of local government that receives Title I funds to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations.

6. Section 906 of the Cranston-Gonzales National Affordable Housing Act, as amended by subsection 104(1) of the Housing and Community Development Act of 1974 – no CDBG funds may be obligated or expended to any unit of general local government that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations or fails to adopt and enforce a similar policy of applicable state and local laws against physically barring entrances to or exits from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction.

7. Section 109 of Title I of the Housing and Community Development Act of 1974 – Prohibits discrimination on the basis of race, color, national origin, sex, or religion in programs and activities receiving financial assistance under Title I of the Housing and Community Development Act of 1974. Here, a grantee's receipt of CDBG program funds.

8. Section 503 of the Rehabilitation Act of 1973, as amended – provides for nondiscrimination in contractor employment. All recipients of federal funds must certify Affirmative Action for handicapped/(disabled) workers for all project contracts and include the following certifications:

    a. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action steps to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

    b. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

    c. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor pursuant to the Act.

    d. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action steps to employ and advance in employment qualified handicapped employees and applicants for employment and the rights of applicants and employees.

    e. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action steps to employ and advance in employment physically and mentally handicapped individuals.

    d. The contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

9. Section 504 of the Rehabilitation Act of 1973 – Prohibits discrimination based on disability in any program receiving federal financial assistance. Here, a grantee's receipt of CDBG funds.

10. Title II of the Americans with Disabilities Act of 1990 – Prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing assistance and housing referrals.

11. Architectural Barriers Act of 1968 - The Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped/disabled persons.

12. Age Discrimination Act of 1975 – Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

13. Title IX of the Education Amendments Act of 1972 – Prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

14. Executive Order 11246, as amended - Bars discrimination in all phases of federal employment because of race, color, religion, sex, or national origin during the performance of a federal or federally assisted construction contract.

15. Executive Order 12898 – Requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

16. Executive Order 13166 – Eliminates, to the extent possible, limited English proficiency as a barrier to full ad meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.

17. Executive Order 11063, as amended – Directs all departments and agencies to take all action necessary and appropriate to prevent discrimination in housing and related facilities owned or operated by the Federal Government; or provided with Federal financial assistance; or provided with insured or guaranteed federal loans; or eliminate discriminatory lending practices with respect to such residential property and related facilities, including land to be developed for residential use, insofar as such practices relate to loans insured or guaranteed by the Federal Government.

18. The Vietnam Era Veterans' Readjustment Act of 1974 (Revised Jobs for Veterans Act of 2002): This Act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative Action is required in the hiring and promotion of veterans.

# Chapter IX

# ACQUISITION & RELOCATION

## INTRODUCTION

The Uniform Act (UA) applies to displacement that results from acquisition, demolition, or rehabilitation for HUD-assisted projects carried out by public agencies, nonprofit organizations, private developers or others; and real property acquisition for HUD-assisted projects (whether publicly or privately undertaken). Grantees must assure they have taken all reasonable steps to minimize the displacement of persons (defined as families, individuals, businesses, nonprofit organizations, and farms) as a result of activities assisted with CDBG funds.

The following is the governing guidance that covers relocation and acquisition in HUD Programs: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, regulations can be found at 49 CFR 24 (revised 2005); Section 104(d) of the Housing and Community Development Act of 1974; CDBG Program Regulations at 24 CFR 570.488, 24 CFR 570.606 (Subpart K); and Section 414 of the Stafford Act. HUD Handbook 1378 provides HUD policy and guidance on implementing the UA and 49 CFR Part 24 for HUD funded programs and projects. Additionally, Federal Register Notices covering supplemental appropriations for disaster recovery may contain waivers and alternative requirements.

**NOTE ENVIRONMENTAL REVIEW COMPLIANCE**: No project related acquisition may occur after the date of the pre-application public hearing until the Environmental Review process is completed and DED has issued an "Authority to Use Grant Funds".

Proposals submitted to the Missouri Water/Wastewater Review Committee are also subject to the CDBG environmental review requirements. Acquisitions may not occur after a proposal has been submitted to the MWWRC unless CDBG's ER process has been completed.

**The Uniform Act was passed to achieve the following public policy objectives:**

1) Encourage and expedite the acquisition of real property by amicable agreements between grantees and property owners;

2) Avoid litigation and relieve congestion in the courts;

3) Assure consistent treatment for property owners in Federal programs; and,

4) Promote public confidence in Federal land acquisition practices.

**Relocation Assistance**: The intent of the Act is to establish a uniform policy for fair and equitable treatment of persons that are displaced as a result of "federally-assisted" program. Relocation assistance must be provided as specified in the applicable provisions of the Uniform Act; or, if applicable, under Section 104(d) of the Housing and Community Development Act.

**When does the Uniform Act Apply to Your Project Acquisitions?**
Property acquisition under the UA begins with the grantee's formal decision to acquire a specific property or properties for a CDBG-funded project. Compliance with the UA is required because anytime CDBG funds are used in a project it causes the project to be deemed a federally assisted project. As such, the grantee's project acquisition activities becomes subject to the requirements of Uniform Act, at 49 CFR 24, as amended. Typically, the acquisition and relocation regulations of the Uniform Act are applicable to a project from the date of the grantee's pre-application public hearing. At the public

hearing, the applicant publicly announces their intent to submit an application for CDBG funds for their proposed project to DED.

The UA applies to the following four types of project acquisitions: permanent and temporary easements necessary for the project; a parcel of land; a long-term lease of 50-years or more; and right-of-ways. Determine the type of acquisition(s) that are necessary for your project with your project's engineer or architect. Then, acquire the property in compliance with the requirements of the Uniform Act. The Uniform Act applies even when property is donated.

**Who is a Displaced Person?**

Displacement occurs when a "person" (family, individual, business, nonprofit organization or farm) moves as a direct result of a CDBG-assisted acquisition, demolition, or rehabilitation project.

Direct result includes the following:

A. After notice by the Grantee to move permanently from the property, if the move occurs after the initial official submission to the State for grant, loan, or loan guarantee funds that are later provided or granted;

B. After notice by the property owner to move permanently from the property, if the move occurs after the date of the submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity;

C. Before the date described above, if either HUD or the grantee (or State, as applicable) determines that the displacement directly resulted from acquisition, rehabilitation, or demolition for the requested activity;

D. After the initiation of negotiations if the person is the tenant-occupant of a dwelling unit and any one of the following three situations occurs:

   1. The tenant has not been provided with a reasonable opportunity to lease and occupy a suitable decent, safe, and sanitary dwelling in the same building/complex upon completion of the project, including a monthly rent that does not exceed the greater of the tenant's monthly rent and estimated average utility costs before the initiation of negotiations or 30 percent of the household's average monthly gross income; or

   2. The tenant is required to relocated temporarily for the activity but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporary location and any increased housing costs, or other conditions of the temporary relocation are not reasonable; and the tenant does not return to the building/complex; or

   3. The tenant is required to move to another unit in the building/complex, but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

**Who is Not a Displaced Person?**

A. A person with a court ordered eviction for cause based upon serious or repeated violations of material terms of the lease or occupancy agreement. To exclude a person on this basis, the Grantee (or State, as applicable) must determine the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

B. A person who moves in the property after the date of the notice described in paragraph (B) in the section above, but who received a written notice of the expected displacement before occupancy;

C. An owner-occupant of the property who moves as a result of voluntary acquisition or as a result of voluntary rehabilitation or demolition. Note that the tenant of such a structure would be eligible for relocation benefits.

D. A person who the Grantee (or State, as applicable) determines is not displaced as a direct result of the acquisition, rehabilitation, or demolition for an assisted activity. To exclude a person on this basis, HUD must concur in that determination;

E. A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy a binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility.

**Involuntary vs. Voluntary Acquisitions:**

The involuntary procedures of the UA apply when a grantee decides that it will ultimately use their power of eminent domain to acquire the land or easement should the Uniform Act acquisition process fail. The acquiring agency must determine if acquisition will be voluntary or involuntary before starting the process. Once the grantee decides on a voluntary acquisition, the use of eminent domain is no longer an option.

For involuntary acquisition, a grantee must follow all steps of Subpart B of the Uniform Act to complete acquisitions that are determined to be necessary for the implementation of the grantee's CDBG project. The acquisition process is detailed on page 17 of this chapter.

Please note that if acquisition and/or relocation activities are part of your CDBG project, the property owner of the land, easement, or structure being acquired must be informed of their UA rights. A property owner must be provided a preliminary acquisition notice letter and the HUD acquisition brochure or, if applicable, the DED/CDBG Easement brochure.

If the right of eminent domain will not be used or does not exist, the acquisition is voluntary. In the event the acquisition negotiation with the property owner(s) is unsuccessful, the grantee will end the acquisition process. Grantees are required to follow two basic procedures of the Uniform Act. Refer to the chart in the appendix titled "General UA Acquisition Process". Grantees must provide a written acquisition notice and provide a written offer letter. In the acquisition notice and offer letter, the grantee must inform the property owner that either they do not have eminent domain authority; or that they have eminent domain authority, but will not use it. In the offer letter, the grantee must provide the property owner the amount of the market value based on an opinion or on an appraisal. Refer to the sample HUD voluntary acquisition letters in the appendix to this chapter.

**Please Note the Following:**
Sample acquisition and relocation notices, brochures, and other applicable documents are provided in the appendix to this chapter and on the CDBG website at: https://ded.mo.gov/content/community-development-block-grants
Sample Acquisition and Relocation documents may be found at the HUD website: www.hud.gov/relocation

The Uniform Act does NOT apply to temporary easements that are exclusively for the benefit of the property owner; that is, one that is "not necessary" for or not directly related to the project. The UA is also not applicable when the acquired property is from a government agency and the acquiring grantee does not have the power of eminent domain.

## PROPERTY ACQUISITION PROCEDURES

Property acquisition under the Uniform Act (UA) is a sequential process that begins with the grantee's decision to acquire a specific property or easement for a project funded in part or in whole with CDBG funds. All project acquisitions made after the applicant's (application) public hearing date are subject to either the voluntary procedures of the Uniform Act or to the involuntary Subpart B procedures of the Uniform Act, regardless of the source of funding for the acquisition activities. The typical acquisition process under Subpart B of the UA is itemized below:

1) **Determine the specific acquisitions that are necessary for your CDBG project**: Review each of the project activities with the grant administrator, engineer/architect, grantee's staff, and the council or commission to determine the specific properties that must be obtained for your project. Acquisition deemed necessary for project implementation may include: a parcel of land for a water tower or for a sewer treatment site; land and/or a building for a community center; permanent or temporary easements for water or sewer line activities; a long term lease (50 years or more); or, right-of-way for a street or a rail spur for an industrial park project. A purchase or a donation of property or an easement is considered an acquisition under the Uniform Act.

2) **Determine the Owner(s) of the Property**: Obtain documentation of ownership of the properties that must be acquired for the project, which are the deed and the legal description of the property from the Office of the County Recorder of Deeds. Review the deed and legal description of the property to determine if there are any existing easements or liens. NOTE: CDBG funds may not be used to remove liens or to perfect the owner's title. Title defects must be cleared by and at the expense of the property owner(s), or with non-CDBG funds.

3) **Notice: Provide a Preliminary Acquisition Notice and HUD Brochure to the Owner(s)**: For full fee simple title, long term lease, and right-of-way acquisition, provide the owner with a preliminary acquisition notice letter, and the HUD brochure, "When a Public Agency Acquires Your Property". The letter, inclusive of the HUD Brochure, must be sent by certified or registered mail with return receipt requested, or hand delivered. If hand delivered the signature of the property owner and the date it was received is required to document receipt. Copies of the grantee's preliminary acquisition notice and all other acquisition letters and compliance records should be maintained in individual files established under the name of each property owner who donated or sold their property for the project. A sample preliminary acquisition notice is provided in the appendix and online.

For permanent and temporary easement acquisitions, provide the owner with the DED/CDBG easement brochure. The brochure is the grantee's formal notice to inform the easement owners of their rights under the Uniform Act. The brochure must also be sent by certified or registered mail with return receipt requested, or hand delivered. If hand delivered, the signature of the property owner and date received are required to be in their individual acquisition file. Copies of this combination notice/brochure and all other related acquisition records should be maintained in separate files established for each individual property owner. The DED/CDBG easement brochure must be provided

to each property owner even if acquisition activities are paid with funds from another agency, private or local match. The DED/CDBG Easement brochure may be found in the appendix of this chapter

4) **Determine Just Compensation with Appraisals or Valuation**

**Appraisals and Review Appraisals**

The Uniform Act requires both an appraisal and a review appraisal when the value of the property or easement exceeds $10,000. The grantee must procure both a licensed Missouri appraiser and a review appraiser in accordance with the CDBG competitive proposal method. For a listing of licensed appraisers, you may contact the Missouri Real Estate Appraisers Commission at: 573-751-0038; or online at: http://pr.mo.gov/appraisers.asp

No appraiser shall have an interest in the property to be acquired. A professional service contract that includes the requisite civil rights provisions in Appendix 1 of the CDBG Contract Management Chapter must be executed with both the project's appraiser and review appraiser. A sample HUD appraisal contract is available upon request from DED; however, DED recommends the use of the standard appraisal contract used by licensed Missouri appraisers.

The Uniform Act requires the grantee or their appraiser to invite the property owner to accompany her/him during the appraisal inspection of their property. The Act also requires that the appraiser not consider race, color, religion, or the ethnic characteristics of a neighborhood in estimating the value of the property. The appraiser shall disregard any decrease or increase in fair market value of the real property caused by the project to the extent permitted by applicable state law.

Both the appraisal and review appraisal must be maintained by the grantee in the acquisition file for each individual property owner. Under RSMO 339.535, State certified real estate appraisers and state licensed appraisers shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the appraisal standards board of the appraisal foundation. Therefore, an appraisal & review appraisal must meet the USPAP standards, under Missouri law.

A licensed Missouri appraiser, independent of the first appraiser, must do the review appraisal. The review appraiser and the original property appraiser cannot be from the same firm. The review appraisal must be written, and should focus on the adequacy of the first appraiser's supporting data, methodology, and the soundness of the first appraiser's opinion of fair market value based on that information. The review appraisal is only a review and not a second full appraisal. The review appraiser should also provide a recommendation as to the fair market value of the property; this requirement should be stated in the scope of work for the RFP and their signed contract. If the review appraiser's amount differs from the original appraisal, the grantee must do one of the following: use the review appraiser's recommended fair market value; secure an additional appraisal; or, have the original appraiser correct their appraisal to be consistent with the review appraiser's report.

**Property Valued at $10,000 or less**

An appraisal and review appraisal may also be used to determine the value of properties valued at $10,000 or less, but they are not required under the UA. However, an official written determination of (opinion of) value is still required to be made in writing and placed in each property owner's acquisition file. The grantee has to make a determination that an appraisal is unnecessary because the valuation is uncomplicated and the fair market value is estimated at $10,000 or less, based on a review of available data (Section 24.102c (2) (ii). Available data for example, may be the price per acre based of recent property sales of similar property in the area.

The determination must contain supporting information, made by a qualified person familiar with the local property market values. Use a license real estate agent, broker, or another independent appraiser to develop the written (opinion) determination of value**.** The determination of value must be placed in the project file of the property owner.

**Donations**

No provision of the Uniform Act (UA) regulation prevents a property owner, after being fully informed of their UA right of just compensation, from donating their property or easement to the grantee or subgrantee for a CDBG-assisted project. The amount of compensation is based on a review of available data or an appraisal of the real property. The property owner must also be informed of their right to accompany the appraiser during the appraisal visit.

Because a property owner is entitled to just compensation under the Uniform Act, a donation should never be assumed; their willingness and intent to donate must be documented. A "Waiver of Just Compensation and Appraisal Rights" form should be prepared by the grantee for the property owner's signature after the property owner voluntarily agrees to donate their easement or parcel of land and/or building. The waiver should clearly state that the property owner understands that she/he cannot be required to donate the property or be required to sell the property to the grantee at less than the amount of the appraised value. The waiver should clearly indicate that the owner voluntarily agrees to donate, and their intent to voluntarily release the grantee of its UA obligation to determine a just compensation amount based upon an appraisal.

Because a property owner is entitled to an appraisal or a determination of value before making a decision to donate, it is incumbent on the grantee to document that the owner is made aware of their appraisal right and elects to waive their right to an appraisal before obtaining the signed waiver. If they do not waive their appraisal right, use the sample form titled, "Waiver of Only Right of Just Compensation." Both sample "waiver" forms may be found in the appendix of this chapter.

When the property is donated to the grantee by the property owner, the grantee is responsible for paying all costs and fees associated with the transfer of title and recording the property in the grantee's or subgrantee's name. Under the Uniform Act process, a property owner must not incur any costs, unless that cost pertains to the perfection of the owner's title. Documentation requirements include a waiver signed by each property owner stating they were made aware of their UA rights and intend to donate. The signed waiver must be kept by the grantee in each property owner's acquisition file. The grantee must keep records that a property owner was fully informed of their UA rights by documenting their receipt of a DED/CDBG Project Easement Brochure, or the preliminary acquisition notice and HUD brochure, "When a Public Agency Acquires Your Property". Promptly record the donated property with the County's Recorder of Deeds Office. Both brochures are in the appendix.

5) **Issue Written Offer and the Statement for the Basis of Just Compensation**: The next step is for the grantee to formally issue a written offer to the property owner to purchase the property, inclusive of the written "Statement of the Basis for the Offer of Just Compensation." The offer cannot be less than the grantee's official determination of market value, or the appraised value of the property. The offer letter must specify the amount of the offer, a date on which the negotiation for the sale of the property can begin, and should provide for a reasonable response date by the property owner. For acquisition purposes, 14 - 30 days is considered reasonable per UA Appendix A, 24.102(f). The property owner

may accept the offer, reject the offer, or make a reasonable counter offer by the response date. A sample offer letter may be found in the appendix.

6) **Negotiations Under the UA**

**Successful Negotiated Settlement of the Offer:**
If the initial offer is not accepted, the grantee should negotiate for the sale of the property. The owner **must** be provided a reasonable opportunity to respond to the offer, and to make a counter offer based on information the owner presents as relevant to determining the market value of the property. If the grantee accepts the counter offer, the grantee **must** have written documentation in its project files to show that the negotiated settlement amount was **reasonable, prudent and in the public interest**.

When CDBG funds are used to pay the acquisition cost, the grantee shall prepare a written justification to show that the available market information (e.g., appraisals, recent court awards, or estimated trial cost or condemnation hearing time and costs) supported the amount of the negotiated settlement inclusive of costs of the risk of trial, i.e., the time and legal costs of going through the condemnation process.

Every attempt should be made to negotiate an amicable agreement with the owner. If it is believed that the cost of the condemnation proceeding or resulting delays in project implementation would be greater than the additional amount being requested by the property owner, the owner's proposed higher value or a negotiated amount may be accepted, if it is a reasonable amount.

**Unsuccessful Negotiation of the Offer**: Send a "final offer letter" to the property owner that includes a final response deadline. The letter must not be coercive and the response deadline must be reasonable, i.e., 14 – 30 days. If the property owner fails to respond by the deadline, the grantee may exercise their statutory right of condemnation after the expiration of the response deadline that is stated in the final offer letter. Refer to final offer letter in the appendix.

**NOTE: Coercive actions are prohibited**: A grantee must not take any coercive action against a property owner in order to induce an agreement for the price to be paid for their property.

**Condemnation**: The condemnation process can be more expensive than a negotiated price, and the grantee is required to pay the amount established by the condemnation commissioners or by the court in a condemnation trial proceeding. For this reason, the grantee must determine and fully document the reasonableness of the costs of proceeding to condemnation. If a grantee decides to acquire the property through the condemnation process, it must follow the state's condemnation process.

7) **Transfer Title:** Once an acquisition is successful or a condemnation proceeding is completed, the following tasks remain:

Record the transfer of ownership of the parcel or the easement to the grantee. The deed, easement, or the applicable form of the specific type of acquisition must be promptly recorded at the office of the County Recorder of Deeds.

Pay recording fees and other incidental acquisition fees. The grantee must pay for or reimburse the property owner for all reasonable costs incidental and associated with the transfer of title. These costs include, but are not limited to, recording fees, transfer taxes, evidence of title, and the legal description.

A grantee is not responsible for costs required to perfect a property owner's title.

**Recordkeeping to Document UA Compliance**
It is important that the grantee keep records sufficient to document compliance with the provisions of the Uniform Act. A recommended acquisition recordkeeping system is provided below. Every

acquisition document, correspondence, or form required by the UA acquisition process must be found in each individual property owner's project file for a CDBG project monitoring review. Always maintain a separate file for each property owner.

**HUD's Acquisition and Relocation Handbook 1378, 6-3 Recordkeeping Requirements**

A grantee must have the following acquisition documents in each property owner's project file:

1) Identification of property owner(s) and their property, e.g., deed and contact information;
2) Documentation that the property owners were informed of their Uniform Act rights, e.g. acquisition notice and HUD brochure or DED/CDBG brochure;
3) Copy of appraisal and review appraisal;
4) Copy of written purchase offer and "statement of the basis for the determination of just compensation; and, documented date of delivery to property owner(s);
5) Copy of purchase contract;
6) Copy of closing statement, HUD-1 form, identifying incidental expenses; evidence that owner received net proceeds from sale, e.g., copy of cancelled check or wire payment;
7) Copy of recorded deed in name of grantee;
8) Copy of any appeal or complaint and agency response;
9) Condemnation Commissioner's Report or Condemnation Trial Judgement, if applicable.

## UNIFORM ACT RELOCATION REQUIREMENTS

The Uniform Act specifies the relocation payments and relocation advisory services for which a displaced person is entitled. Displaced individuals, families, businesses, nonprofit organizations, and farm operations are eligible for relocation assistance and moving expenses under the provisions of the Uniform Act. Any person displaced as a result of a project's CDBG- assisted rehabilitation, demolition, or acquisition activities, whether privately undertaken or public, may be eligible for relocation payments and services specified under the Act because of the use of CDBG funds in the project. The following is a brief description of a displaced person's rights under the Uniform Act. Grantees should consult with DED Compliance staff concerning any questions about the application of the Uniform Act's relocation requirements to your project.

NOTE: Sample relocation notices, claim forms, and other documents referred to in this section may be obtained by request from CDBG or online at: https://ded.mo.gov/content/community-development-block-grants (CDBG Forms) or at: www.hud.gov/relocation

Maintain a separate file for each project relocation. Grantees may not propose that a displaced individual or family waive their relocation benefits under 49 CFR 24.207(f). Although, a displaced property owner may waive their acquisition rights, they may not waive their UA relocation assistance rights.

In planning relocation activities, grantees should consider and rectify adverse impacts of displacement on minorities, the elderly, large families, and disabled persons where applicable. Also, the Uniform Act provides that the displaced person/family be provided the choice of relocating in their present neighborhood or nearby similar neighborhoods, consistent with the grantee's responsibility to affirmatively further fair housing (49 CFR 24.8(o), 24.205(a)(1), and 24.205(c)(2)(ii)(D).

The following section contains the procedural steps that are typically followed to complete a project's Uniform Act Relocation Activities:

**Grantee Must Adopt Relocation Assistance Guidelines**: DED strongly recommends that a grantee formally adopt written relocation guidelines for their project. This must be done in order to establish the relocation assistance that will be provided to the grantee's relocation beneficiaries in a uniform and consistent manner.

**Relocation Assistance Notice and Advisory Services Description:**
Once a grantee has determined that a family will be displaced, the grantee must provide the displaced family with both a Notice of Eligibility for Relocation Assistance and a general written description of the grantee's relocation assistance advisory services. The relocation notice and advisory services description may be included with the Preliminary Acquisition Notice.

**HUD Relocation Brochures**: The applicable HUD relocation brochure (and acquisition brochure, if applicable) must be provided with the preliminary acquisition and relocation notice(s). The following HUD Relocation Brochures can be found at www.hud.gov/relocation

Relocation Assistance to Tenants Displaced From Their Homes

Relocation Assistance to Displaced Homeowners

Relocation Assistance to Displaced Businesses, Nonprofit Organizations, and Farms

Relocation Assistance to Tenants Displaced From Their Homes (Section 104(d))

**Manner Required to Deliver the Relocation Notice Letter**: All required Uniform Act notices must be sent by certified mail or hand delivered. Receipt of the notice letter by the property owner or tenant that will be displaced must be documented with a return or signed receipt.

**Relocation Assistance**: Individuals and families are entitled to relocation assistance for a comparable dwelling. The payment can take the form of rental differential, down payment assistance, comparable replacement housing, or last resort housing assistance. Displaced businesses, nonprofit organizations, and farm operations are also entitled to a payment for relocation expenses.

A grantee must receive a completed, signed relocation assistance payment claim form before a relocation assistance payment can be processed for a displaced individual or family. Claim forms are available at www.hud.gov/relocation. The claim form must be reviewed and approved by the grantee prior to making payment to the displaced family.

**Types of Relocation Assistance Payments**: The Uniform Act covers two basic classifications of displaced persons, which are tenants and homeowners. To be able to receive a relocation assistance payment, the homeowner and tenant must meet occupancy thresholds. Both homeowners and tenants must have resided in their residence for a minimum of 90-days prior. Use the following HUD forms for relocation assistance:

- Claim for Replacement Housing Payment for 90-Day Homeowner-Occupant – Form HUD-40057
- Claim for Rental Assistance or Down Payment Assistance – Form HUD-40058

  NOTE**:** The replacement rental unit selected by the displaced person must be inspected by the grantee and found to meet HUD's decent, safe, and sanitary standards (DSS) at (24.2(a)(8) and 24.401(a)(2)); and,
- Residential Claim for Moving and Related Expenses – Form HUD-40054

**Notice of Eligibility for Relocation Assistance**: At the minimum, the relocation notice should inform the displaced person/family of the following:

- 90-Days at Minimum to Move: Not required to move without, at the minimum, a 90-day written notice from the grantee, but may agree to move before the expiration of the 90-days.

- Eligible Amount of Relocation Assistance: State the eligible amounts of both relocation and moving expense payments, consistent with the requirements of the Uniform Act.

- Offer a Specific, Available, DSS, Comparable Replacement Dwelling: A person/family cannot be required to move unless the grantee has offered at least one available, comparable replacement unit that meets HUD's decent, safe, and sanitary standards (DSS). At the minimum, the Section 8 HQS housing standards may be used by a grantee to document that a dwelling met the HUD DSS Standards, under the UA.

- Moving Expenses: may be eligible for fixed or actual moving expense payment;

- Advisory Services: The person/family is eligible for relocation advisory services, such as help in filling out claim forms for relocation and moving expense payments, referrals to comparable replacement dwellings, transportation if necessary to inspect comparable replacement units, and a personal interview to determine their advisory service needs.

- Appeal Rights: The person has the right to appeal the grantee's determination of non-eligibility or the amount of moving and relocation payments through the grantee's adopted grievance process.

- Grantee Relocation Administrator: Provide the name and telephone number of the grantee's relocation assistance administrator.

**Comparable Replacement Units Must Be Offered**: At least three comparable replacement units must be offered to the displaced family in the Relocation Notice letter. One of the three comparables must be designated in the notice as the "most comparable replacement unit." The replacement housing payment shall be based on the amount, if any, that must be added to the acquisition cost of a comparable dwelling. The maximum statutory benefit for replacement housing payments for displaced homeowners is $31,000.

The calculation for a replacement housing payment under 49 CFR 24.401(b) shall be the sum of:

1. The purchase price differential (49 CFR 24.401(c)). This is the amount by which the cost of a comparable replacement dwelling exceeds the acquisition cost of the displacement dwelling, and
2. Increased Mortgage Interest Costs (49 CFR 24.401(d)), and
3. Incidental Expenses (49 CFR 24.401(e)).

If they are being displaced from a rental dwelling, the dwelling designated as the "most comparable" rental unit will be used to calculate the amount of the rental assistance payment for which the displaced household is eligible to receive. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $7,200 for rental assistance. Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of either:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

2. The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

The specific amount of relocation assistance for which a displaced family is eligible to receive must be stated in the grantee relocation notice to that household.

**Moving Expense Payment:** Displaced individuals, families, businesses, nonprofit organizations, and farm operations that are required to move because of a project's acquisition, rehabilitation, or demolition activities are eligible for a moving expenses payment, which is inclusive of utility disconnection and/or hookup costs. Anyone who is displaced, regardless of length of occupancy, is eligible to receive a moving expense payment. Under the Uniform Act, the displaced family has the discretion to choose between receiving a "fixed" moving expense payment or a payment for "actual" moving expenses. Grantee must have a completed, signed claim form in order to make a moving expense payment to a displace family or individual. Use HUD Form 40054 – 'Residential Claim for Moving and Related Expenses'.

• Fixed Moving Expense Payment**:** The amount of the "fixed" moving expense payment for individuals and families is based on a published U.S. DOT/HUD schedule, so please consult with your DED compliance specialist to obtain the most recent schedule (49 CFR 24.302). www.hud.gov/relocation

• Actual Moving Expense Payment: The payment of actual moving expenses must be documented in each displaced person's file with copies of canceled checks and attached receipts (49 CFR 24.301(a)(ii)).

• Eligible Moving Expenses are transportation costs within 50 miles, packing, crating, storage, insurance, and other reasonable and necessary costs under the Uniform Act (49 CFR 24.301(g)).

• Waiver of Moving Expense Payment NOT Allowed: a displaced family may not waive moving expenses. The back of the moving expense claim form must be used to explain who will pay for utility disconnection and re-connection fees and who will move the family's belongings, if a family refuses to file a moving expense claim. The displaced family must sign this form (49 CFR 24.207(f)).

**Replacement Housing of Last Resort 49 CFR 24.404**: If the grantee formally determines that comparable replacement sale or rental housing is **not** available, then last resort housing may be provided to the displaced family by the grantee. A displaced family may also request that the last resort housing be placed on their existing lot. Last resort housing shall be provided on a reasonable cost basis.

**Methods for Providing Replacement Housing of Last Resort**: The activities for providing replacement housing of last resort assistance includes, but is not limited to:

- Rehabilitation of and/or additions to an existing replacement dwelling;
- Relocation to and, if necessary, the rehabilitation of a dwelling to DSS;
- Construction of a new replacement dwelling;
- Removal of barriers for persons with disabilities; or,
- Meeting the handicapped adaptability and accessibility design and construction requirements

**Optional Relocation**: 24 CFR 570.606(d) allows the State to permit a grantee to provide alternative relocation payments and other relocation assistance to persons displaced by a grantee's project activities at levels in excess of the required amounts. The assistance shall only be provided upon the basis of a uniform written policy that is publicly adopted by the grantee. The adopted policy shall describe the relocation assistance to be provided on an equal consistent basis for displaced families.

**Re-establishment Expenses Payment**: Small businesses, farm operations, or nonprofit organizations are eligible to receive a payment for expenses actually incurred in re-establishing their operation at the replacement site. Expenses must be documented and be reasonable and necessary. Please contact your DED Compliance Specialist for this claim form, HUD brochure, and the sample notice letter for this type of relocation, or download it from our website.

**Advance Relocation Payments**: If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the grantee shall issue the payment, subject to safeguards that are appropriate to ensure that the objective of the payment is accomplished.

**Notice of Denial of Claim and Right of Appeal**: The Uniform Act allows a relocation applicant the right to appeal a grantee's denial of eligibility of their relocation assistance claim, or to appeal the grantee's determination of the amount of relocation assistance. All grantees must incorporate this right of appeal in their project's adopted guidelines and grievance procedure.

## RELOCATION ASSISTANCE RECORDKEEPING REQUIREMENTS

1. List of Occupants: For each project, the grantee's files shall include a list or lists identifying the name, address, and race/ethnicity, age, and gender if single head of household.
2. Project Contact Log: Maintain a contact log in the file of each displaced household.
3. Description of Relocation Advisory Services: A general description of the grantee's relocation advisory services for which the person may be eligible, including assistance to relocate to a comparable replacement dwelling, basic eligibility requirements, and procedures for obtaining payments. The grantee's advisory services may be described in the form of a booklet or flyer.
4. Offer Three Comparable DSS Replacement Dwellings: File must contain an offer of three replacement properties with addresses, rent/utility costs or sale prices of the dwellings, and documentation to show they are currently available for sale or rent. Designate which property is the "most comparable replacement dwelling."
5. Decent, Safe, and Sanitary Inspections: Have copies of the inspection reports of the offered comparable replacement dwellings. The reports must show the date of inspection and that each dwelling met HUD's DSS Housing Quality Standards (HQS).
    - If the displaced family chooses a residence that was not offered by the grantee, that residence must be inspected by the grantee to ensure that it meets HUD's DSS standards. If it does not meet those standards, it must be rehabilitated to meet the DSS HQS standards before the displaced family may move into it. However, if the renovations are cost prohibitive, the family must be provided the option of incurring the additional renovation costs; or, selecting another residence that does meet HUD's DSS standards.
6. File Retention Period: Relocation files should be maintained for a five-year period after the closeout of the project by DED.

# RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN REQUIREMENTS, SECTION 104(D) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

The Section 104(d) relocation requirements are designed to protect from the loss of available stock of low/moderate income housing caused by demolition or conversion to another use (e.g., parking lot, condominiums, strip-mall), in a CDBG assisted project. Grantees undertaking **any** acquisition, demolition, or rehabilitation activities must comply with these requirements, whether they are acquiring and rehabilitating an apartment building into a condo; acquiring and demolishing several sub-standard occupied LMI houses for a strip-mall; or demolishing a "vacant, but occupiable" residential structure for a parking lot under Section 104(d). The housing stock of LMI dwelling units must not be reduced by a CDBG assisted project, whether those LMI dwellings are occupied or vacant.

Section 104(d) "one-for-one replacement" requirements apply to structures that have been vacant for less than 12 months, or occupied, but meet the statute's definition of a LMI dwelling unit. A grantee is required to replace, on a one-for-one basis, any LMI dwelling unit that is demolished or converted as the result of a CDBG assisted project. The dwelling must be affordable to a LMI household, where the monthly rent or mortgage payment and average utilities do not exceed either 30% of their household income, or the area's HUD fair market rent. DED recommends that the rent and average utilities do not exceed 25% of a LMI family's household income so that the LMI family does not become economically burdened by the new rent and utility costs. The unit must remain affordable to LMI households for at least ten years.

In a CDBG redevelopment project, a grantee may rehabilitate a dwelling that has been vacant at least 90 days and use it as their Section 104(d) one-for-one replacement unit. The rehabilitation work must make the unit meet HUD's decent, safe, and sanitary standards (HUD's Section 8 standards), as well as local housing and occupancy codes. That cost may not exceed $45.00 per square foot.

Section 104(d) requires that before a CDBG grant can be awarded, a grantee **must** certify that it is following a "Residential Anti-Displacement Plan." All grantees submit this certification in the form of their "Sample Plan" (Form N) with their CDBG grant application. However, should a Section 104(d) demolition or conversion occur during the implementation of your project, an amended Section 104(d) plan must be submitted to CDBG staff for review and approval, prior to the initiation of the proposed demolition and/or conversion activities. The grantee's amended plan must comply with the Section 104(d) one-for-one replacement requirements. An Amended Section 104(d) Notice must also be published prior to the proposed Section 104(d) activities.

**Exception to Section 104d One-for-One Replacement Rule**: Section 104(d) provides for an exception to the one-for-one replacement requirement. The one-for-one replacement requirement will not apply if there is an adequate supply of available, vacant low/moderate-income dwelling units in standard condition in the grantee's jurisdiction.

To support an exception request, a grantee must provide DED with documentation of an excess supply of available vacant homes and/or apartments that are affordable to LMI families. DED's finding of an exception is subject to HUD's review and approval.

Section 104(d) one-for-one replacement requirement do not apply to any LMI dwelling unit that has been vacant for more than 12 months. Therefore, in a CDBG demolition-only project, a grantee may only demolish substandard dwellings that have been vacant for more than 12-months.

**Section 104(d) Relocation Assistance**: Persons of LMI households who are displaced from their dwelling as a result of the demolition of any housing unit or the conversion of a low/moderate income unit to another use (e.g., condo or commercial use) must be provided with the following relocation assistance by the grantee. Only lower-income (LI) residential tenants are covered:

1. Advisory services
2. Actual or fixed moving expenses as described in the Uniform Act
3. Reimbursement for reasonable and necessary security deposit and credit checks
4. Replacement housing assistance payment. The replacement housing assistance for a 180-day homeowner is identical to that discussed under the Uniform Relocation Act section of this chapter.
5. The grantee must offer a person choosing to rent the following relocation assistance:
    - Section 8 housing voucher/certificate and referrals to comparable replacement units where the owner agrees to participate in the Section 8 Program; or
    - Cash rental assistance to reduce the rent and utility cost to 25% - 30% of the gross household income for 60 months. Grantee must provide the displaced person or family with appropriate referrals to comparable replacement rental units.

Note: Document payment with a signed Section 104(d) claim form and a copy of the canceled check.

**Uniform Act Relocation Down Payment Assistance Option**: A displaced household may choose Uniform Act Relocation Assistance instead of the Section 104(d) relocation assistance described above. Here, the 42-months of Uniform Act rental assistance may be used in lump sum as downpayment assistance to purchase a house that meets HUD's DSS HQS standards. The Uniform Act assistance is a viable option for displaced occupants who want to purchase a home rather than continue to rent. Section 104(d) regulation does not allow for the 60-months of Section 104(d) rental assistance payments to be used for the purpose of down payment assistance to purchase a home.

## RE-USE PLANS

Lot or property re-use plans must be submitted by a grantee when a parcel or lot has been acquired and cleared by the grantee for future redevelopment. The reuse of the cleared lots must meet a HUD national objective and constitute a HUD eligible activity. The reuse requirement applies to both residential and commercial demolition projects.

If the acquisition and demolition activities are based on meeting the 51% LMI benefit national objective, the grantee must submit a reuse plan to DED to document that a LMI benefit will or has occurred. The reuse plan must be submitted and approved by DED prior to the grantee's reuse activity on the cleared lot/parcel. For example, the reuse plan states the cleared lots will only be donated to LMI families to build affordable homes on. After DED approves the grantee's reuse plan, then the grantee may begin to implement the activities of that plan.

For the "demolition-only" project, a reuse plan is not required because these projects are not designed for immediate post-project redevelopment.

With a commercial demolition project, a reuse plan is required if the redevelopment activity of that lot will immediately follow the project's demolition activity. In that reuse plan, the grantee must document that the demolition activity meets one of CDBG's slum and blight criterion and/or a LMI objective. For

example, the cleared lot will be used to build a senior center, which meets the LMI limited clientele national objective; also, a senior center is a HUD/CDBG eligible activity.

DED must approve the reuse plan **prior to** the demolition/clearance activity.

## CDBG MONITORING

DED is responsible for monitoring for compliance with applicable Federal and State laws and regulations. In conducting monitoring reviews of activities, DED's compliance staff will use the Acquisition and the Relocation Checklists from Chapter 1 of the Administration Chapter of this manual.

Please do not hesitate to call your CDBG Field Representative or the staff Acquisition Specialist regarding any questions you might have, or call for brochures, claim forms, sample notices, or waiver forms. In addition to the forms and materials included or mentioned in this chapter, HUD & CDBG brochures, claim forms, and regulations are available at:
https://www.hud.gov/program_offices/comm_planning/library/relocation

and https://ded.mo.gov/content/community-development-block-grants

## Appendix

17 Acquisition Process Under Uniform Act

18 General Uniform Act Acquisition Process – Voluntary vs Involuntary

19-20 DED / CDBG Project Easement brochure

21 Voluntary Acquisition – Informational Notice for Agencies with Eminent Domain Authority

22 Voluntary Acquisition – Informational Notice for Agencies without Eminent Domain Authority

23 Preliminary Acquisition Notice

24 Waiver of Just Compensation and Appraisal Rights

25 Waiver of Just Compensation; Retention of Appraisal Rights

26 Statement of Basis for Offer of Just Compensation

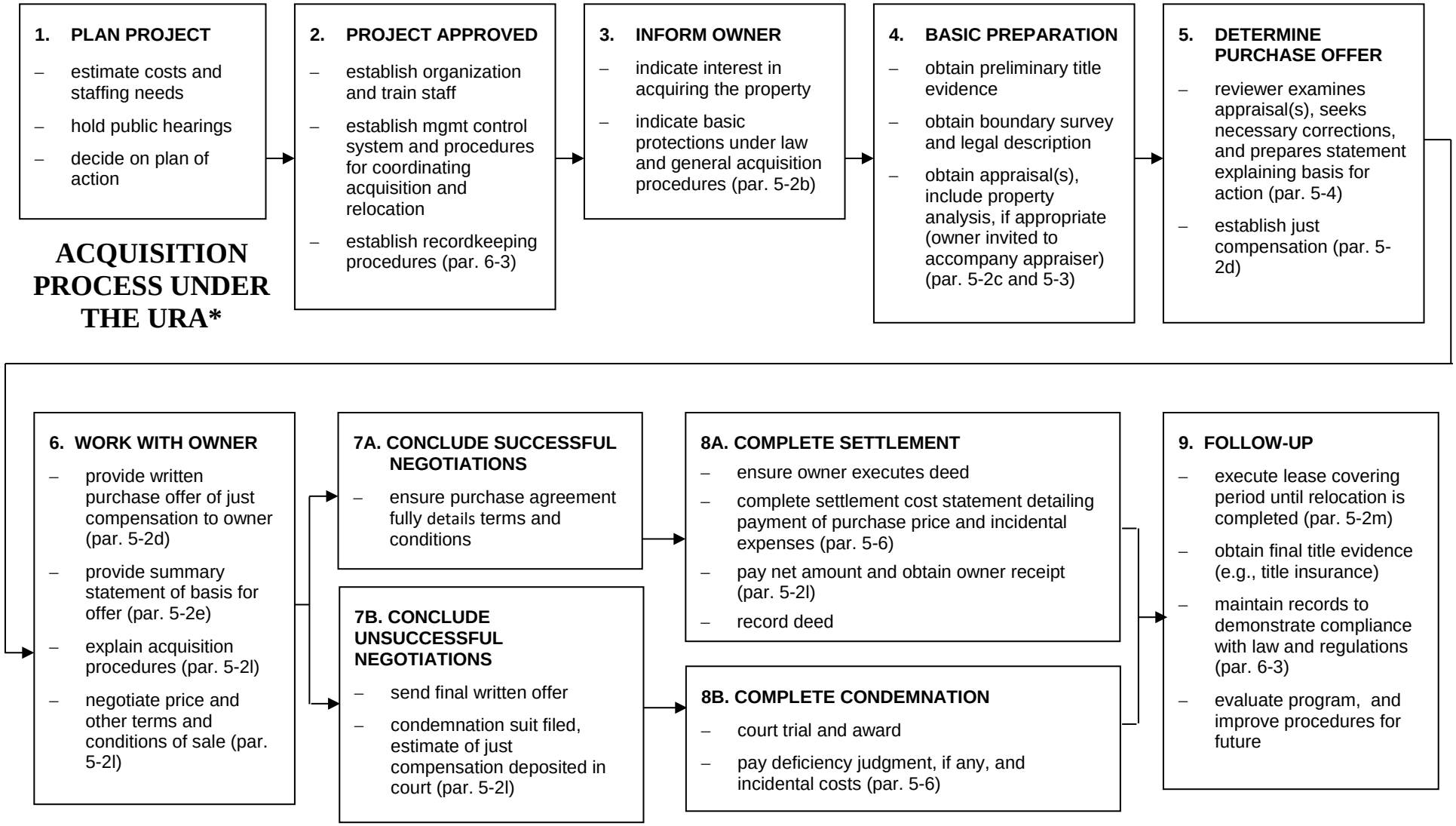
27 Offer to Purchase Parcel / Land

28 Offer to Purchase / Easement

29 Final Offer to Acquire Property

30-31 Guide for Jointly Funded FEMA/CDBG and CDBG Funded Buyout Projects

# ACQUISITION PROCESS UNDER THE URA*




**Note**:

Paragraph numbers refers to HUD Handbook 1378

1378 CHG-8
Appendix 23

## GENERAL URA ACQUISITION PROCESS

*(Refer to 49 CFR 24 Subpart B for detailed acquisition requirements)*

| VOLUNTARY ACQUISITIONS<br>49 CFR 24.101(b)(1)-(5) | INVOLUNTARY ACQUISITIONS<br>49 CFR 24.101(a) & (b) |
|---|---|
| *Determine if proposed acquisition satisfies criteria and requirements of 24.101(b)(1)-(5). If acquisition doesn't meet criteria (e.g., is subject to threat or use of eminent domain), refer to involuntary acquisition process and comply with 49 CFR 24 Subpart B requirements.* | *Determine if proposed acquisition is subject to threat or use of eminent domain. If not subject to eminent domain, refer to voluntary acquisition process and comply with applicable requirements of 49 CFR 24.101(b)(1)-(5).* |
| **24.101(b)(1) - Agencies with eminent domain authority but will not use: must meet all conditions of 24.101(b)(1)(i) – (iv)**. *(see esp. 24.101(b)(1)(i) & (ii))* | * Notify owner of agency's interest in acquiring property and protections under the Uniform Act *(see 24.102(b))*<br>*(Optional: issue Notice of Intent to Acquire (see 24.203(d))* |
| * Agency will not acquire property if negotiations fail, and owner is so informed in writing *(see 24.101(b)(1)(iii))* | * Appraise property and invite owner to accompany appraiser *(see 24.102(c))* |
| * Agency informs owner in writing of property's estimated market value *(see 24.101(b)(iv))* | * Review the appraisal *(see 24.104)* |
| * Owner/s & owner occupants not eligible for relocation assistance / displaced tenants may be eligible *(see 24.2(a)(9)(ii))* | * Establish estimate of just compensation for property *(see 24.102(d))* |
| **24.101(b)(2) – Agencies or persons without eminent domain authority:** | * Provide owner with written offer and summary statement for property *(see 24.102(e))* |
| * Prior to offer, inform owner unable to acquire if negotiations fail *(see 24.101(b)(2)(i))* | * Negotiate with owner for purchase of property *(see 24.102(f))* |
| * Inform owner of property's estimated market value *(see 24.101(b)(2)(ii))* | * If negotiations successful, complete sale and reimburse property owner for related incidental expenses *(see 24.106)* |
| * Owner/s & owner occupants not eligible for relocation assistance / displaced tenants may be eligible *(see 24.2(a)(9)(ii))* | * If negotiations unsuccessful, consider an administrative settlement *(see 24.102(i))* |
| **24.101(b)(3) – Acquisition from a Federal agency, State, or State agency, if acquiring agency without eminent domain authority:** | * If negotiations still unsuccessful, consider acquiring property through eminent domain. |
| * Owner/s & owner occupants not eligible for relocation assistance / displaced tenants may be eligible *(see 24.2(a)(9)(ii))* | * Displaced persons eligible for relocation assistance *(see 24.2(a)(9)(i))* |

App. 23 [03/07]

# DED/CDBG PROJECT EASEMENT BROCHURE

Community Development Block Grant (CDBG) funded water and sewer improvements usually involve the installation or replacement of utility lines on the properties of existing or future customers. The donation of easements for these lines is a cost saving mechanism to successfully provide your community with safe water or safe waste disposal. To familiarize you with the donation process, we have prepared this informational brochure.

The donation of an easement, where federal funds are involved in a project, is governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. It is commonly referred to as the Uniform Act (UA). The procedures under the Act can be separated into five steps. They are:

1. Notice of Project
2. Notice of Uniform Act Rights
3. Donation & Recording Easement
4. Negotiation, if necessary
5. Eminent Domain, if necessary

## NOTICE OF PROJECT

This easement brochure is your notice of our jointly funded CDBG public facility project and of our need for your easement as part of this project. To make the project more cost effective for all residents, you are respectfully asked to donate your easement for the benefit of this project.

## NOTICE OF UNIFORM ACT RIGHTS

Under the Uniform Act, an easement owner has three basic rights:

6. Just Compensation
7. Appraisal & Review Appraisal
8. Right to Accompany Appraiser

Appraisals are not required for easements valued at $10,000 or less, but a determination of market value must be made and documented.

## DONATIONS

An owner may donate their easement for this project after being informed of the above Uniform Act rights.

The donation procedure is a very important tool for public agencies, since most have limited resources. Often, the value of the easement donation is more than offset by the future benefits received by the owner from the publicly owned water or sewer utility that will be provided.

Easement owners, after having been informed of their Uniform Act rights, are asked to waive those rights and to donate their easement to the project. After agreeing to donate, the easement owner will be asked to sign a Waiver of both Just Compensation and Appraisal rights, and to formally record the easement at the office of the County Recorder of Deeds. The city, county, or district will pay the recording fees.

## NEGOTIATION

Although an easement owner is not required to donate to receive the specific water or sewer service provided by the project, we strongly encourage donation for the public good. If you decide instead to request just compensation, you may accept the written offer of just compensation based on either an appraisal or a determination of value, or make a counter offer. In fairness to both property owners and taxpayers, offers must be based on the facts, which is an appraisal or written determination of the value of your property. If you present additional facts or items of value that were not considered in any valuation of your property, an adjustment will be considered and a revised offer may be presented to you. If the amount of just compensation cannot be reached through negotiation, then the laws of

condemnation/eminent domain will have to be exercised by the city, county, or district.

## CONDEMNATION/EMINENT DOMAIN

The state statutes allow a city, county, or district to acquire an easement by exercising their statutory right of condemnation. This process is initiated by the public agency filing a condemnation petition. If the court determines that the petition is proper, then three condemnation commissioners will be appointed to determine the value of the easement. The court-appointed commissioners, after considering the facts, make their determination of value and file their report with the clerk of the court. After their report is filed with the court, the local public agency must deposit the amount established by the commissioners with the circuit clerk. Exceptions to the commission's easement value may be filed by either the property owner or the public entity within 10-days of the filing the report, otherwise their amount of just compensation becomes final.

## CONCLUSION

We strongly encourage you to donate your easement for the success of this project. Your donation will result in a more cost-effective public benefit to you and all of the users of this public facility project.

If you have any additional questions after reading this brochure, please contact the organization listed below:

Agency: _____

Address: _____

_____

Office Hours: _____

Telephone Number: _____

Contact Person: _____

Property Owner's Signature:

_____

_____

**State of Missouri**
**Department of**
**Economic Development**
**State CDBG Program**

# Project Easements

For: _____

(Title of project Grantee or District)

Funded by: _____

_____

(Grantee, District, CDBG, RD, DNR)

GUIDEFORM

# - VOLUNTARY ACQUISITION –

- Informational Notice -

(Agencies With Eminent Domain Authority)
Grantee or Agency Letterhead

(date)

Dear _____:

(City, County, State, other) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

Please be advised that, (City, County, State, other) _____ possesses eminent domain authority to acquire property, however, in the event you are not interested in selling your property, or if we cannot reach an amicable agreement for the purchase of your property, we will not pursue its acquisition under eminent domain.

Your property is not a necessary part of the proposed project and is not part of an intended, planned, or designated project area where substantially all of the property within the area is to be acquired.

We are prepared to offer you ($)_____ to purchase your property. We believe this amount represents the current market value of your property.

Please contact us at your convenience if you are interested in selling your property.
In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance.

If you have any questions about this notice or the proposed project, please contact (name)_____, (title)_____, (address)_____, (phone)_____.

Sincerely,
(name and title)_____

NOTES.
1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiations of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
3. This guideform may only be used if all of the requirements of 49 CFR 24.101(b)(1)(i)-(iv) are met.
4. This is a guideform. It should be revised to reflect the circumstances.

[03*/07*] App. 32-2

# GUIDEFORM
# - **VOLUNTARY ACQUISITION –**

- Informational Notice -
(Agencies Without Eminent Domain Authority)
Grantee or Agency Letterhead

(date)

Dear _____:

(Name of Agency/Person) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD).

Please be advised that (Name of Agency/Person) _____ does not have authority to acquire your property by eminent domain. In the event we cannot reach an amicable agreement for the purchase of your property, we will not pursue this proposed acquisition.

We are prepared to offer you ($) _____ to purchase your property. We believe this amount represents the current market value of your property. Please contact us at your convenience if you are interested in selling your property.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are <u>not</u> eligible for relocation assistance.

If you have any questions about this notice or the proposed project, please contact (name)_____, (title)_____, (address)_____, (phone)_____.

Sincerely,
(name and title)_____

NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., certified mail, return receipt requested) and the date of delivery.
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiations of negotiations, and 49 CFR 24 Appendix A - 24.2(a)(15)(iv).
3. This is a guideform. It should be revised to reflect the circumstances.

# PRELIMINARY ACQUISITION NOTICE

(date)

Friendly Farmer Property Owner
700 Farmer's Row
Village of Sunny Day, MO 64444

RE: 2015-PF-50 (Village of Sunny Day)

Dear Friendly Farmer Owner:

We write to inform you that the Village of Sunny Day has determined to acquire 5-acres of your farmland to be used to develop a land application treatment system for the city's sewer system. The city will be using Community Development Block Grant funds to upgrade its sewer system. The acquisition of easements for the sewer line part of this project will also be requested.

A HUD brochure is enclosed that describes your rights and the procedures the city will follow to acquire your property, under the Uniform Act (UA). Please be advised that you have the following rights:

- A right to "just compensation" based on an appraisal and review appraisal if your property's fair market value is more than $10,000
- The UA procedures require that the city hire an independent, Missouri licensed or certified appraiser to appraise the value of the property we seek to acquire
- You have the right to accompany the appraiser during the appraisal inspection of your property. A letter inviting you to accompany the appraiser will be sent by that appraiser at least five days prior to the inspection.
- However, where the value of the easement is estimated to be $10,000 or less, the determination of value may be based on a review of available data, rather than by an appraisal.

If you have any questions regarding this acquisition, please call the city's grant administrator, Grants R Us, at 444-444-4444.

Very truly yours,

Malcolm Mayor

cc Grants R Us

Enclosures: When a Public Agency Acquires Your Property
MO DED/CDBG Project Easement Brochure

# Waiver of Just Compensation and Appraisal Rights

WAIVER OF RIGHTS AND BENEFITS OF THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, as amended, (42 U.S.C. 4601)(49 CFR PART 24)

I, _____, as owner(s) of title, understand that I am entitled to Just Compensation for my property based on an independent qualified appraisal or a written determination of market value under the Uniform Act provided by the City/County/Village of _____ for the following property:

(Attach or insert Property or Easement Description)

I hereby waive my rights under the Uniform Act, to Just Compensation, an appraisal, and the right to accompany the appraiser, and I donate the property described above.

☐ For my parcel donation, I hereby acknowledge receipt of the HUD brochure "When a Public Agency Acquires Your Property."

☐ For my easement donation, I acknowledge receipt of the DED/CDBG Easement Brochure.

_____ _____

Date (Signature of Property Owner(s)

Subscribed and sworn to before me this _____ day of _____, 20__.

_____

(Seal) Notary

# WAIVER OF ONLY RIGHT OF JUST COMPENSATION

**RETENTION OF APPRAISAL RIGHTS**

**UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, AS AMENDED, (42 U.S.C. 4601) (49 CFR PART 24)**

I, _____, as owner(s) of title, understand that I am entitled to Just Compensation for my property. The ____*(city/county/village)*___ has determined that the described property is considered to have a fair market value of $_____ based on an appraisal. (or) For my easement donation, I acknowledge that the ____*(city/county/village)*____ has provided me with a written determination of value of $_____ for the easement described below:

(attach or insert legal description of easement or parcel)

☐ I acknowledge receipt of the HUD brochure, "When A Public Agency Acquires Your Property."

☐ For my easement donation, I acknowledge receipt of the DED/CDBG Easement Brochure.

Based my understanding of the rights and benefits under the Uniform Act as described in the above brochure(s) that I/We received, I/We hereby choose to waive all rights to Just Compensation under the Uniform Act and to donate the property described above.

_____ _____

Date) Signature of Property Owner(s)

Subscribed and sworn to before me this _____ day of _____, 20_____.

(Seal) _____

Notary

# STATEMENT OF THE BASIS FOR THE OFFER OF JUST COMPENSATION

**Description and Location of Property**

The Village of Sunny Day proposes to purchase 5 acres of land (Lots 8, Square 6, Downing Extension) from the owner, Mr. Friendly Farmer at 700 Farmers Row, Village of Sunny Day, Missouri.

**Purpose of Purchase**

The Village of Sunny Day intends to use the 5-acre parcel for the construction of a land application sewer treatment system and to purchase easements for the sewer lines as part of the city's Community Development Block Grant sewer system project.

**Inventory**

The land contains a one-story single-family, 800 square foot, residence of wood frame construction on a block foundation with a crawl space, hard board siding, and a shingled roof.

It contains a living room, kitchen, 2-bedrooms, and one bath.

Interior finish is carpet over plywood, except linoleum in kitchen and bathroom; paneled walls.

The kitchen has counters and painted wood cabinets. There are no built-in appliances.

Heat is gas-fired, 40,000 BTU floor furnace.

The house is 55 years old. Design is basic. Maintenance is fair.

The parcel is 5-acres.

**Declaration of Offer**

Based on the appraisal and review appraisal, the Village of Sunny Day hereby makes you an offer in the amount of $47,500 for the purchase of your property. This offer is for the fair market value of your property and does not include any consideration of decrease or increase in value attributable to the project for which it is being acquired.

# OFFER TO PURCHASE PARCEL/LAND

(date)

Mr. & Mrs. Friendly Farmer
700 Farmers Row
Village of Sunny Day, Missouri 64444

RE: 2015-PF-50 (Village of Sunny Day)

Dear Mr. and Mrs. Farmer:

We have previously informed you of the Village's interest in acquiring your property for our sewer treatment project. Based on our appraisal and review appraisal of your property, we have determined the value to be $47,500. The Village hereby makes you a firm offer in the amount of $47,500 for the purchase of your property.

We believe that the above offer accurately represents the fair market value of your property based on the appraisal. We urge your favorable consideration and acceptance.

If this offer meets with your approval, the Village's grant representative, Grants R Us, is prepared to purchase and record the property in the city's name. The Village would like to start construction of this project within the next few months; therefore, we ask that you contact Grants R Us no later than fourteen days after the date of this letter to arrange the final purchase.

You may call Grants R Us at 444-444-4444 or stop by and make an appointment at city hall.

If you have any questions, please do not hesitate to contact us at the above phone number.

Very truly yours,

Angela Pearl Mayor

cc Grants R Us

# OFFER TO PURCHASE/EASEMENT

(date)

U. A. Property Owner
25 North Easement Row
Village of Sunny Day, Missouri 64444

RE: 2015-PF-50 (Village of Sunny Day)/Sewer line Extension

Dear U.A. Owner:

We have previously informed you of the Village's interest in acquiring an easement on your property for our sewer line extension project. Based on our review of recent property sales in your area, we have determined the value of the easement to be $200. The Village hereby makes you a firm offer in the amount of $200 for the purchase of the easement on your property.

We believe that the above offer accurately represents the fair market value of your property based on a review of available data (i.e., recent property sales in the area). Our realtor's opinion of value is enclosed. We urge your favorable consideration and acceptance.

If this offer meets with your approval, the Village's grant administrator, Grants R Us, is prepared to purchase and record the easement in the city's name. The Village would like to start construction of this project within the next few months; therefore, we ask that you contact Grants R Us no later than fourteen days after the date of this letter to arrange the final purchase.

You may call Grants R Us at 444-444-4444 or stop by city hall and make an appointment to meet with us regarding the Village's offer.
If you have any questions, please do not hesitate to contact us at the above phone number.

Very truly yours,

Angela Pearl Mayor
Enclosure
cc Grants R Us

# FINAL OFFER TO ACQUIRE PROPERTY

(date)

U. A. Property Owner
25 North Easement Row
Village of Sunny Day, Missouri 64444

RE: 2015-PF-50 (Village of Sunny Day)

Dear U.A. Owner:

We write to follow up on our original offer to acquire an easement on your property. In our previous offer letter, we respectfully asked that you respond no later than fourteen days after the date of that letter, regarding your acceptance of the Village's offer of $200 to purchase the easement on your property. We have not heard from you regarding our offer to purchase the easement.

The Village hereby offers $200 for the purchase of the easement on your property for our sewer line project based on an appraisal and review appraisal of your property. The Village's offer is based on that recent appraisal. Please consider this letter the Village's final offer. Do not hesitate to contact us regarding any counter offer that you want to propose.

Again, we inform you that the Village must complete this project in a timely manner. Therefore, we are asking you to respond to our final offer no later than fourteen days after the date of this letter, so that we can proceed with this project.

If we are unable to negotiate the acquisition of the easement from you by that deadline, the Village will find it necessary to exercise its statutory right of condemnation. It is our hope that we can amicably and successfully negotiate the acquisition of the easement.

If you have any question regarding the Village's offer, please do not hesitate to contact the Village's grant administrator, Grants R Us at 444-444-4444.

Very truly yours,

Margarita Figueroa Mayor

cc Grants R Us

# GUIDE FOR JOINTLY FUNDED FEMA/CDBG BUYOUT PROJECTS & FOR SOLELY CDBG FUNDED BUYOUT PROJECTS

The Missouri Department of Economic Development manages CDBG disaster funds from HUD intended for communities in presidentially declared disasters. When CDBG disaster funds are received from HUD, DED will set up an application process for cities and counties to apply for those funds designed for the disaster needs in their community. Generally, the funds are used to address infrastructure and housing needs.

For acquisition and relocation activities, DED funds two types of projects:

1) Jointly Funded FEMA/CDBG Buyout Projects - CDBG funds are used as the 25% local match for the 75% of FEMA funds the grantee receives from SEMA's Hazard Mitigation Program. The funds are used to buyout flood damaged properties in that community. SEMA and DED work with the community to purchase land and homes to relocate the families to decent, safe, and sanitary housing. Since SEMA is the lead agency for these projects, their rules govern. SEMA's grant administrator works with the grantee to implement and administrate the project. Acquisitions are done on a voluntary basis.

2) Solely CDBG Funded Buyout Projects – CDBG funds are 100% of the project's funds, but it may include local cash or in-kind matching funds. For buyout projects solely funded with CDBG funds (where no FEMA funds are involved) a grantee has the option to follow either the Uniform Act appraisal and review appraisal process, or follow SEMA's acquisition and review appraisal appeal process. Acquisitions are done on a voluntary basis.

Acquisitions for Jointly Funded FEMA/CDBG Projects: SEMA requires a single appraisal to determine the market value of a home for the purpose of making an offer to purchase the dwelling from the property owner. Since buyout programs are voluntary programs, the grantee never uses their statutory authority of eminent domain to acquire the dwelling. The property owner has 3 choices: (1) accept the grantee's offer; (2) appeal the amount of the offer to a SEMA review appraiser; or, (3) decide to withdraw from participating in the grantee's voluntary buyout program.

SEMA Appeal Process: If the property owner disagrees with the offer amount and would like to appeal the market value determination, the property owner may provide their own appraisal completed by a state certified appraiser (the property owner is responsible for the cost of this appraisal). Both appraisals will then be submitted to SEMA for review. SEMA's review appraiser will review both appraisals and determine the most reasonable market value. Once a determination is made, SEMA will notify the grantee and the grantee should send a final offer to the property owner.

Acquisitions for Buyout Projects Funded Solely With CDBG Funds: With buyout projects that are solely funded with CDBG funds, the grantee will have to procure a review appraiser for the purpose of conducting a desktop review of any property owner's appeal of the grantee's buyout offer. The grantee has two options when implementing a buyout program regarding the review appraiser.

1. Follow the Uniform Act: The grantee will procure an appraiser and a review appraiser. The review appraiser will review the original appraisal. The grantee will make an offer based on that determination of the market value of the property.

a. The property owner may counter offer or withdraw from the grantee's voluntary buyout program.
b. The grantee may reject the property owner's counter offer or withdraw from the voluntary buyout process; or,

2. Follow a SEMA's Appraisal Review Process: A grantee may adopt the SEMA acquisition process as part of its buyout acquisition guidelines. Here, the original appraisal is used by the grantee as the determination of market value to make their offer. A review appraiser is procured only if the property owner formally files an appeal of the grantee's determination of the market value of their property. If an appeal is filed by the property owner, they will have to agree, in writing, to accept the determination of value by the review appraiser or withdraw from the buyout process prior to the procurement of the review appraiser.

With a buyout project, the grantee must inform the property owners at the beginning of the project, in their preliminary acquisition notice, that they will not use their statutory right of condemnation and that the buyout is strictly a voluntary program.

Relocation Assistance: Assistance will be governed by the grantee's adopted program guidelines.

1) Jointly Funded FEMA/CDBG Projects: SEMA is the lead agency; therefore, CDBG funds will be used to pay 25% of SEMA's determined costs.

2) Buyout Funded Solely with CDBG Funds: The Uniform Act regulations will govern the amount and types of relocation assistance and will be part of the grantee's adopted buyout program guidelines. Housing replacement or rental assistance, and moving expenses will be provided to the participants in the grantee's voluntary buyout program.

## **ACQUISITION AND RELOCATION HELPFUL HINTS**

- The Uniform Act applies from the date of your CDBG pre-application public hearing forward.
- Maintain a separate acquisition file for each property owner who is covered by the requirements of the Uniform Act and/or a Disaster Buyout project, or the Section 104 (d) Anti-Displacement Requirements.
- Acquisition requires the completion of the CDBG Environmental Review Process PRIOR to acquiring an easement or parcel with private funds, local match, or with CDBG funds.
- Uniform Act regulations apply **regardless** of who pays the acquisition costs when CDBG funds are used in your project.
- Remember to provide the HUD acquisition brochure, When a Public Agency Acquires Your Property, to the property owner in all instances to inform them of their UA rights.
- For acquisitions valued at $10,000 or less, appraisals are not required; however, the grantee is still required to document in writing, with a valuation report/opinion, how the amount of the offer (market value) was determined (recent sales, assessor's appraisal, etc.). Have a written opinion of the property's value from a licensed realtor or appraiser in project file.
- Always promptly record the deed or easement immediately after the acquisition.

# CHAPTER X

## DEMOLITION ACTIVITY COMPLIANCE REQUIREMENTS

This chapter covers the compliance requirements for a CDBG demolition-only project and demolition activity in other project categories. In a demolition project, all compliance areas apply: environmental review, documenting slum and blight national objective, citizen participation, procurement, contract management, equal opportunity, fair housing, (sometimes acquisition, and labor standards). Labor standards apply when there will be an immediate, subsequent redevelopment project on the site of the cleared property.

In addition, this chapter will cover the regulations and requirements that are unique to demolition activities. Follow the specific compliance rules that are applicable to your project. These rules apply to the project whether it is a CDBG funded demolition-only, community facility, or public facility.

**There Are Two Types of Demolition Projects:**

Residential-Only: The primary objective is to assist a grantee with the demolition of its dilapidated, abandoned residential housing stock. This type of project may also include up to 5 commercial structures. Every structure must have a DED Environmental Clearance prior to the demolition of the structure. If structures are added to the project, those structures are subject to DED's Environmental Review process. All residential structures must be vacant for a minimum of one-year and must have a clear title (no liens). **LIEN SEARCHES MUST BE DONE BY A TITLE COMPANY.** The structures must meet the grantee's unsafe building ordinance or nuisance ordinance "criteria." (see sample ordinance) . All demolitions must have the owner's written consent. CDBG funds may not be used for involuntary demolitions/condemnations. (see sample consent form). The owner retains possession of their cleared lot. All demolitions must be done in compliance with DNR asbestos and demolition waste disposal land fill requirements.

Commercial Demolitions: These projects may consist of demolishing one or more commercial structures. These demolition activities must also meet the above requirements.

## NATIONAL OBJECTIVE: SLUM & BLIGHT CRITERIA

Slum & Blight: A grantee must document that each structure meets one of the below slum and blight criteria's or the local adopted definition of slum and blight, i.e., adopted dangerous building code criteria. **Eliminating a specific instance of slum and blight on a spot basis: {24 CFR 570.208(b)(2)}:**

**Local Unsafe Building or Nuisance Ordinance**: A grantee may demolish any building that meets their local dangerous building code or nuisance ordinance criteria. Our program considers a structure that has been determined to meet the criteria of a local ordinance as substandard for meeting the HUD/CDBG spot slum and blight criteria. A grantee should use that criteria to document any residential or commercial structure proposed for demolition meets the HUD slum and blight national objective. Prior to the initiation of the demolition of any structure with the use of CDBG funds, a grantee must have documentation in their project files for each structure to show that an official determination has been made that shows that the condition of the structure violates their local ordinance.

**Infeasible to Rehabilitate**. A house or structure that is officially determined not feasible to rehabilitate to a HQS code or standard will meet the HUD spot slum and blight national objective. To meet this criterion, the costs to rehabilitate the house or structure to DED's health and safety rehabilitation standards must exceed $15,000, or $15 per square foot. Generally, grantees will have identified these houses at the time of application submission, for each house in a demolition-only project. A work specification write-up inclusive of a cost estimate must be used to document the infeasibility to rehabilitate the structure. It must show the costs to rehabilitate the house to DED HQS health and safety standards. Include the number of square feet in the house. This information plus the estimate will be reviewed to determine whether the house is infeasible to rehabilitate.

**Eliminating Slum & Blight on an Area Basis:**

**HUD Area Slum & Blight Definition:** At least 25% of the properties throughout the area has to have one or more of the following conditions (570.208(b)(1):

A) physical deterioration of buildings or improvements
B) abandonment of properties
C) chronic high occupancy turnover rates or chronic high vacancy rates in commercial or industrial buildings
D) significant declines in property values or abnormally low property value relative to other areas in the community
E) known or suspected environmental contamination
F) public improvements throughout the area are in a general state of deterioration

**Under Missouri Statute Chapter 353(2):** Blighted Area means that a portion of the city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate or outmoded design or physical deterioration, has become an economic and social liability, and that such conditions are conducive to ill health, transmission of disease, crime, or inability to pay reasonable taxes. Documentation of a council's or commissions formal ordinance that declares the area blighted must be maintained in the grantee's project file.

Re-use: When a grantee acquires ownership of a cleared lot using CDBG funds, the subsequent use of the cleared lot may require the grantee to also document the national objective as LMI benefit for the grantee's planned redevelopment (re-use) of the cleared lot.

## PROCUREMENT AND EQUAL OPPORTUNITY

Grantees must follow the procurement requirements to procure a demolition contractor, asbestos contractor and professional service providers, such as a demolition inspector, and asbestos inspector. Always thoroughly check references. Should in-kind labor and equipment be used to conduct the demolition activities, the grantee must still comply with State and Federal waste disposal requirements, including OSHA worker protection requirements, and EPA/DNR asbestos inspection and disposal requirements. MBE, WBE, and Section 3 firms must be directly solicited for all project activities.

**Demolition and Asbestos Inspector Procurement:** A grantee must follow the competitive proposal procurement method to procure for these professional services. For the procurement of demolition inspectors and a licensed asbestos inspector, a grantee must develop a list of at least 7-10 qualified inspectors in their geographic area, and directly solicit them with a Request For Proposal (RFP). Refer to the Procurement Chapter for a sample RFP. For asbestos inspectors, a grantee must first make sure that they are licensed by the Missouri Department of Natural Resources. A list of licensed asbestos inspectors may be found under the title "building inspectors" at: http://www.dnr.mo.gov/env/apcp/asbestos.htm. **The demolition inspector cannot be the demolition contractor and the asbestos inspector cannot be the asbestos abatement contractor.**

**Asbestos Contractor Procurement**: A grantee has two options to procure an asbestos contractor.

**1)** The first option is that a grantee may bid two separate contracts: one for asbestos only removal by a licensed asbestos contractor , and a separate bid for the demolition only of all of the structures after the asbestos has been removed. The grantee's demolition inspector and asbestos inspector must collaborate to develop the work specification for both contracts. **If the asbestos abatement contract for the total residential-structures is in excess of $2,000 and there are 8 or more contiguous units, Davis Bacon provisions apply. For all commercial structures the asbestos abatement must be a stand-alone contract. If the contract is in excess of $2,000 and being paid with CDBG funds, Davis-Bacon is applicable.**

**2)** The second option is for a grantee to bid a single demolition contract, inclusive of the asbestos inspector's recommendations in the demolition specifications. The general demolition contractor would be required to subcontract the asbestos removal work to a licensed asbestos contractor based on the demolition and asbestos inspector's work specifications. After the removal of the asbestos by the licensed asbestos contractor, the demolition contractor would complete the demolition of the structure(s). **Again, for commercial structures the asbestos abatement must be a stand-alone contract. If the contract is in excess of $2,000 and being paid with CDBG funds, Davis-Bacon is applicable.**

A list of licensed asbestos contractors may be found under the classification of "contractor" at http://www.dnr.mo.gov/env/apcp/asbestos.htm

**Demolition-Only Contractor Procurement**: We require a grantee to bid all or a substantial number of the structures at one time. This requirement exists to promote the cost effective expenditure of CDBG funds. Example, if the project has 15 structures, all 15 should be bid at one time to result in one contract with one contractor. If the project has 35 structures, then 20 structures could be bid in the first round and 15 in the second. This would result in having two contractors; one for each of the two rounds or the same contractor for both rounds. This procurement method has resulted in substantially lowering the average demolition cost per structure. Do not bid each house separately to individual contractors because this results in higher project cost. Follow our procurement requirements in the Procurement Chapter. Contractors must provide documentation of the successful completion of the ten (10) hour Occupational Safety and Health Administration (OSHA) course.

## LABOR REQUIREMENTS

**1.** Davis-Bacon and the State's prevailing wage laws are **not** applicable to a project's CDBG funded demolition activities if:

- The demolition work, is not directly related to a subsequent construction project, see 7-5 below.
- Less than eight units will subsequently be constructed on the cleared site(s)/lot(s)
- The grantee pays for materials and land, but the subsequent construction is solely private, i.e., no federal funds are used to pay for either the construction work or the land. Also, the mere payment for land with CDBG funds would not trigger Davis Bacon and Related Acts (DBRA) where federal funds are not used in the project to also pay for construction work.
- Please Note: Subsequent construction or subsequent redevelopment of lots cleared with CDBG funded "demolition-only" projects is not allowed under that program application.
- If the asbestos abatement contract for commercial structures is **not** in excess of $2,000.

### HUD Handbook 1344.1, Rev.1, Appendix #3:

"7-5: DEMOLITION. Demolition work, which is not related to construction, is not subject to the prevailing wage requirements of DBRA. For example, the demolition of a building because such structure is no longer needed would not in itself be a covered construction activity. However, where an existing building is being demolished as a phase of a construction project subject to DBRA, the demolition would also be covered, as in the case of demolition performed to permit construction of a new building."

**2.** When the Davis-Bacon/prevailing wage rate is Applicable to a Demolition Project:

- Rule 1: The Davis-Bacon Act requires the payment of prevailing wages only when federal funds are used to pay for construction work for more than $2,000. The state's prevailing wage law applies to any

construction work for public use or benefit that involves any public funds. The State law does not have a dollar threshold amount.

  - For example, if future construction is on the lot acquired by the grantee with CDBG funds and more than eight residential units will be constructed, the state prevailing wage requirements apply.
  - If the demolition is part of a privately funded construction project that is completed under one contract, and the construction will result in the construction of 8 or more residential units or the rehabilitation of 12 or more units under one-contract, then Davis-Bacon requirements will also apply to the related demolition contract.

- Rule 2: Existing Community Plan: Davis-Bacon may apply where a grantee has an existing community plan that addresses the use of property acquired with CDBG funds. The grantee must sign a re-use agreement with the State to ensure compliance with Davis-Bacon and with the HUD national objective requirements based on the plan's specific stated re-use of the cleared site.
- Rule 3: In a CDBG project, Davis-Bacon and/or the state's prevailing wage law applies to demolition work if the grantee plans to use government funds for construction work on the acquired lot. For example, if the grantee uses CDBG funds to build a restroom for a city park on the lot that was acquired and cleared with CDBG funds, then the restroom construction will trigger the use of the Federal and State's prevailing wage building rates.
- Rule 4: Davis-Bacon wage rates are applicable to a demolition project that is part of a "Turnkey" project. Here, the grantee would have a developer pay for the entire construction of a single-family or multi-family project and the supporting public facilities on the land acquired with CDBG funds. Once the grantee determines that the completed construction work is acceptable, then the grantee would reimburse the developer and pay the contractor at the prevailing wage rates. A re-use agreement would also be required prior to the project to ensure either 51% LMI benefit for public facility work or for housing construction to ensure 100% LMI benefit.

## DEMOLITION WASTE DISPOSAL REQUIREMENTS AND ASBESTOS COMPLIANCE

Waste Disposal Requirements: CDBG grantees must comply with all State and Federal waste disposal laws, when conducting demolition activities with grant funds. When residential or commercial structures are approved for demolition, grantees must ensure that the demolition wastes are properly disposed of at a permitted/licensed sanitary or demolition landfill. Specify the applicable DNR disposal requirements in the demolition bid and contract.

See the DNR technical assistance bulletins in this chapter. Asbestos waste materials must be disposed of in accordance with state regulations at 10 CSR 10-6.240. Those regulations require the name of the landfill and that the waste disposal records are maintained for inspection. Hazardous waste must be disposed of in an authorized facility that specializes in hazardous waste, e.g., paint residue that fails the TCLP test. The failure to ensure compliance could result in the contractor and/or the grantee incurring fines and penalties, so have your grant administrator and demolition inspector include disposal specifications in both the demolition bid and contract documents. Obtain and maintain copies of all landfill receipts from your asbestos and demolition contractors.

## DISPOSAL OPTIONS FOR DEMOLITION WASTES FROM RESIDENTIAL PROPERTIES

| **Type of Waste** | **Type of Landfill** |
|---|---|
| Paint residue (if passes TCLP) | Sanitary landfill or special waste |
| Paint residue (if fails TCLP) | Hazardous Waste facility or leas smelter |
| Demolition debris | Sanitary or Demolition landfill |

| | |
|---|---|
| Asbestos roofing – friable & non friable | Sanitary landfill |
| Asbestos siding – friable & non friable | Sanitary landfill |
| Asbestos flooring – friable & non friable | Sanitary landfill |
| Scrap metal | Salvage yard for recycling, or sanitary or demolition landfill |

For proper guidance on waste disposal compliance, contact the following agencies:
MO DNR Main Office – 1/800/361-4827; 751-3443; http://www.dnr.mo.gov
MO DNR Hazardous Waste Program - 573/751-3176
Provides disposal compliance information
MO DNR Solid Waste Management Program - 573/751-5401
Provides a list of landfills in Missouri that have been issued operating permits
Provides compliance information and technical bulletins
MO DNR Air Pollution Control Program (Asbestos) – 573/751-4817
Provides Asbestos compliance and certification information
http://www.dnr.mo.gov/env/apcp/asbestos.htm
MO Department of Health - Lead Program 1-888/837-0927; 573/526-5873
Provides licensing and compliance information
http://health.mo.gov/safety/leadlicensing/
U.S. Occupational Safety and Health Administration (OSHA) - 800/321-6742
OSHA Kansas City Office: 816/483-9531; OSHA St. Louis Office: 314/425-4249
KC Office Toll Free: 1-800/892-2674 St. Louis Toll Free: 1-800/392-7743

Grantees will avoid fines by properly disposing of project waste in accordance with State and Federal regulations. **Original landfill receipts must be in project file for monitoring review.**.

Asbestos Removal and Disposal: Grantees must contact DNR for specific requirements. A licensed asbestos abatement contractor must perform any asbestos abatement work that may be necessary prior to the demolition of any structure. Grantee must ensure compliance with OSHA worker protection requirements.

Open Burning: The open burning of a house, that is to be demolished, is prohibited under 10 CSR 10-3. However, under that state code of regulations, a grantee may burn a house for fire training purposes. The grantee must submit a written request to the appropriate DNR regional office through the fire district that will conduct the burning. The DNR regional office will then review the request and issue an open burning permit. Asbestos containing materials must be removed prior to the fire training exercise. CDBG funds may be used for the asbestos removal activity. Please review the DNR open burning fact sheet, or at: www.dnr.mo.gov/pubs/pub2047.pdf

# DEMOLITION PROGRAM ORDINANCE/RESOLUTION - SAMPLE

Bill No. _____ Ordinance/Resolution No. _____

An Ordinance/Resolution of the City/County of _____, Missouri, Implementing the Housing Site Demolition and Re-Use Program

WHEREAS, the City/County of _____ has received a Community Development Block Grant which provides funds for the demolition of residential and/commercial structures which have been declared blighted by action of the Council/Commission; and

WHEREAS, the City/County of _____ desires to implement the Housing Demolition and Re-Use Program; and

WHEREAS, the City/County of _____ desires to set forth specific provisions and guidelines concerning the Residential and Commercial Building Demolition and Re-Use Program.

BE IT ORDAINED BY THE CITY COUNCIL/COUNTY COMMISSION OF _____ AS FOLLOWS:

SECTION 1. The City/County shall implement a Demolition and Re-Use Program with funds received from a CDBG grant for the demolition of residential (and commercial) structures, which have been declared blighted by action of the City Council/County Commission.

SECTION 2. The County's/City's grant administrator is hereby authorized and directed to execute for and on behalf of the City/County of _____ an agreement with any owners of property which has been declared blighted by action of the City Council/County Commission.

SECTION 3. The agreement shall be substantially the same in form and content as that agreement attached hereto as Exhibit "A" and incorporated herein as it fully and completely set out herein.

SECTION 4. This ordinance shall be in full force and effect from and after its passage and approval by the City Council/county Commission of _____.

DULLY READ TWO TIMES AND PASSED THIS _____ DAY OF _____, 20__.

APPROVED THIS _____ DAY OF _____, 20____.

_____

(Mayor or Presiding Commissioner)

ATTEST: _____ (SEAL)

Approved as to Contents and Form: _____ _____

(Grantee's Counselor) (Date)

# MODEL UNSAFE BUILDING ORDINANCE

AN ORDINANCE OF THE (CITY/VILLAGE) OF _____, MISSOURI, REGARDING DANGEROUS BUILDINGS AS NUISANCES AND THEIR REMOVAL OR RECONDITIONING, PROVIDING FOR THEIR DEMOLITION OR REPAIR BY THE (CITY/VILLAGE) AND PERTAINING TO INSURANCE PROCEEDS FROM DAMAGE OR LOSS TO BUILDINGS OR STRUCTURES.

BE IT ENACTED BY THE COUNCIL OF THE (CITY/VILLAGE) OF _____, MISSOURI, AS FOLLOWS:

**Section 1. Purpose and scope.**

It is the purpose of this ordinance to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures that may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or the general public, and this ordinance shall apply to all dangerous buildings, as herein defined, that now are in existence or that may hereafter exist in the (city/village) of _____, Missouri.

**Section 2. Dangerous buildings defined.**

All buildings that are detrimental to the health, safety or welfare of the residents of the (city/village) and that have any or all of the following defects shall be deemed "dangerous buildings":

1. Those with interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
2. Those that, exclusive of the foundation, show thirty-three (33) percent or more damage or deterioration of the supporting member or members, or fifty (50) percent damage or deterioration of the non-supporting enclosing or outside walls or covering.
3. Those that have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or that have insufficient strength to be reasonably safe for the purpose used.
4. Those that have been damaged by fire, wind or other causes so as to become dangerous to life, safety or the general health and welfare of the occupants or the people of the city.
5. Those that are so dilapidated, decayed, unsafe, unsanitary or that so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or welfare of those occupying such building.
6. Those having light, air and sanitation facilities that are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
7. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other adequate means of evacuation.
8. Those that have parts thereof that are so attached that they may fall and injure members of the public or property.
9. Those that because of their conditions are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city.

**Section 3. Dangerous buildings declared nuisance.**

All dangerous buildings, as defined by Section 2, are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided herein.

**Section 4. Standards for repair, vacation, or demolition.**

The following standards shall be followed in substance by the building inspector and the building commissioner in ordering repair, vacation, or demolition of any dangerous building.

1. If the dangerous building reasonably can be repaired so that it no longer will exist in violation of the terms of this ordinance, it shall be ordered repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, it shall be ordered to be vacated and repaired.
3. In all cases where a building cannot be repaired so that it no longer will exist in violation of the terms of this ordinance, it shall be demolished.
4. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of this (city/village) or statute of the State of Missouri, it shall be repaired or demolished.

**Section 5. Building inspector.**

All city police officers and all other (city/village) employees so designated by the (mayor, city manager/administrator) shall be building inspectors within the meaning of this ordinance.

**Section 6. Duties of building inspector; procedure and notice.**

The building inspector shall have the duty under this ordinance to:

1. Inspect, or cause to be inspected, as often as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that render such places a dangerous building when he has reasonable grounds to believe that any such building is dangerous.
2. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this ordinance, and the building inspector determines that there are reasonable grounds to believe that such building is dangerous.
3. Inspect any building, wall, or structure reported by the fire or police departments of this (city/village) as probably existing in violation of this ordinance.
4. Notify in writing, either by personal service or by certified mail, return receipt requested, or if service cannot be had by either of these modes of service, then service may be had by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of _____ County, of any building found by him to be a dangerous building within the standards set forth in Section 2. The notice required shall state that:
    a. The owner must vacate, vacate and repair or vacate and demolish said building and clean up the lot or property on which the building is located in accordance with the terms of the notice and this ordinance;
    b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession;
    c. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the county wherein the land is located, may, at his own risk, repair, vacate, or demolish the building and clean up the property or have such work done, provided that any person notified under this subsection to repair, vacate or demolish any building, or clean up the property shall be given such reasonable time not exceeding thirty (30) days to commence the required work;
5. The notice provided for in this section shall state a description of the building or structure deemed dangerous, a statement of the particulars that make the building or structure a dangerous building and an

order requiring the designated work to be commenced within the time provided for in the above subsection;

6. Report in writing to the city building commissioner the noncompliance with any notice to vacate, repair, demolish, clean up the property or upon the failure to proceed continuously with the work without unnecessary delay;

7. Appear at all hearings conducted by the building commissioner and testify as to the condition of dangerous buildings.

8. Immediately report to the building commissioner concerning any building found by him to be inherently dangerous and that he determined to be a nuisance per se. The building commissioner may direct that such building be marked or posted with a written notice reading substantially as follows:

   "This building has been found to be a dangerous building by the building inspector. This notice is to remain on this building and/or property until it is repaired, vacated or demolished and the property is cleaned up in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of _____ County. It is unlawful to remove this notice until such notice is complied with."

   Provided, however, that the order by the building commissioner and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this ordinance to the notice and hearing prescribed herein.

**Section 7. Building Commissioner.**

The (mayor, city manager/administrator, city council/board of aldermen, board of trustees or other designated officer or officers) shall act as building commissioner under this ordinance.

**Section 8. Duties of the building commissioner.**

The building commissioner shall have the power pursuant to this ordinance to:

1. Supervise all inspections required by this ordinance, and cause the building inspector to make inspections and perform all the duties required of him by this ordinance. Upon receiving a complaint or report from any source, that a dangerous building exists in the city, the building commissioner shall cause an inspection to be made forthwith. If the building commissioner deems it necessary to the performance of his duties and responsibilities imposed herein, the building commissioner may request an inspection and report be made by any other city department or retain services of an expert whenever the building commissioner deems such service necessary.

2. Upon receipt of a report from the building inspector indicating failure by the owner, lessee, occupant, mortgagee, agent or other person(s) having interest in said building to commence work of reconditioning or demolition within the time specified by this ordinance or upon failure to proceed continuously with work without unnecessary delay, the building commissioner shall hold a hearing giving the affected parties full and adequate hearing on the matter.

   Written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks, in a newspaper qualified to publish legal notices, at least ten (10) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, to appear before the building commissioner on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the building inspector's notice as provided herein.

Any party may be represented by counsel and all parties shall have an opportunity to be heard.

**3.** Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of Section 2.

**4.** If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the building commissioner shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other person(s) having an interest in said building as shown by the land records of the county wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building and to clean up the property, provided that any person so notified, shall have the privilege of either repairing or vacating and repairing said building, if such repair will comply with the ordinances of this (city/village) or the owner or any person having an interest in said building as shown by the land records of the county wherein the land is located, may vacate and demolish said dangerous building at his own risk to prevent the acquiring by the (city/village) of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.

**5.** If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the building commissioner shall cause such building or structure to be repaired, vacated or demolished and the property cleaned up as the facts may warrant; and the building commissioner shall certify the cost of the work borne by the (city/village) for such repair, vacation or demolition or cleaned up to the (city/village) clerk as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be a lien upon said property and shall be deemed a personal debt against the property owner(s) unless the building or structure is demolished, secured or repaired by a contractor pursuant to an order issued by the (city/village) and such contractor files a mechanic's lien against the property where the dangerous building is located. The contractor may enforce this lien as provided in Sections 429.010 to 429.360 Revised Statutes of Missouri. Except as provided in subsection 6 of this section, at the request of the taxpayer this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of _____ percent per annum until paid.

**6.** As to damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, if an order is issued by the building commissioner as provided in subsection 5 of this section, and a special tax bill or assessment is issued against the property, it shall be deemed a personal debt against the property owner. If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion or other casualty loss, the following procedure is established for the payment of up to twenty-five (25) percent of the insurance proceeds, as set forth in subdivisions a and b of this subsection. This subsection shall apply only to a covered claim payment that is in excess of fifty (50) percent of the face value of the policy covering a building or other structure:

a. The insurer shall withhold from the covered claim payment up to twenty-five (25) percent of the covered claim payment, and shall pay such moneys to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under the ordinance.

b. The (city/village) shall release the proceeds and any interest that has accrued on such proceeds received under subdivision a of this subsection to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after the receipt of such insurance moneys, unless the (city/village) has instituted legal proceedings under the provisions of subsection 5 of this section. If the (city/village) has proceeded under the provisions of subsection 5 of this section, all moneys in excess of that necessary to comply with the provisions of subsection 5 of this section for the removal, securing, repair and clean up of the building or structure and the lot on which it is located, less salvage value, shall be paid to the insured.

7. If there are no proceeds of any insurance policy as set forth in subsection 6 of this section, at the request of the taxpayer, the tax bill may be paid in installments over a period of not more than ten (10) years. The tax bill from date of its issuance shall be a lien on the property and a personal debt against the property owner(s) until paid.
8. Subsection 6 of this section shall apply to fire, explosion, or other casualty loss claims arising on all buildings and structures.
9. Subsection 6 of this section does not make the (city/village) a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.
10. The building commissioner may certify in lieu of payment of all or part of the covered claim under subsection 6 that it has obtained satisfactory proof that the insured has removed or will remove the debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the building commissioner shall issue a certificate within thirty (30) days after receipt of proof to permit covered claim payment to the insured without the deduction pursuant to subsection 6 of this section. It shall be the obligation of the insured or other person making the claim to provide the insurance company with the written certificate provided from this subsection.

**Section 9. Appeal.**

Any owner, occupant, lessee, mortgagee, agent or any other person(s) having an interest in a dangerous building as shown by the land records of the recorder of deeds of the county wherein the land is located, may, within thirty (30) days from the receipt of the order of the building commissioner, appeal such decision to the circuit court of the county wherein the land is located, pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri.

**Section 10. Emergencies.**

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building, as defined herein, is immediately repaired, vacated or demolished and the property is cleaned up, the building inspector shall report such facts to the building commissioner and the building commissioner may cause the immediate repair, vacation or demolition of such dangerous building and clean up of the property. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 7(5).

**Section 11. Violations; disregarding notices or orders.**

1. The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the building commissioner shall be guilty of a misdemeanor and upon conviction shall be punishable as set forth in Section 12.
2. Any person removing any notices provided for in this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished in accordance with Section 12.

**Section 12. Penalties.**

Any person violating the provisions of this ordinance is guilty of a misdemeanor and upon conviction thereof, shall be fined not more than five hundred dollars ($500). Each day that a person fails to comply with an order of the building commissioner may be deemed a separate offense.

# PROPERTY OWNER'S DEMOLITION CONSENT, RELEASE, AND AGREEMENT TO MAINTAIN CLEARED LOT (FORM)

I, the undersigned, being the owner of the land and all structures located at _____, realizing that the building or buildings located thereon are substandard, hazardous, and dangerous to the public health and welfare, I do hereby grant the City/County of _____ permission to demolish, destroy, or burn the above specified structures and to dispose of all resulting demolition debris.

I, the undersigned, do hereby grant the City/County of _____, give permission to enter upon the above identified land to accomplish said demolition or burning and disposal.

In consideration of the benefit conferred on me by the City/County of _____, in said demolition or burning and disposal, I, the undersigned, do hereby release and forever discharge the City/County of _____, its agents, servants, employees and assigns from any and all claims, demands, or actions for damages for any and all personal injuries, or loss or damage to property sustained in or growing out of said demolition or burning an disposal, and from complications arising therefrom.

I also hereby agree to fully comply with the City's/County's property maintenance Ordinance/Resolution No. _____ and the property reuse provisions as specified below:

_____
_____
_____
_____

It is understood that the above mentioned benefit is the full consideration for this settlement that the terms of the Release are fully understood and voluntarily accepted.

I HAVE READ THE FOREGOING RELEASE AND FULLY UNDERSTAND IT. IN WITNESS WHEREOF, I have hereunder set my hand this _____ day of _____, 20____.

_____ _____

Signature Name Printed

_____

Witness

# SAMPLE DEMOLITION INSPECTOR WRITE UP

**City Name & Project #**

## Estimate

| **Customer Information** |
|---|
| Demolition Property # 4 |
| Address |
| City, MO |

| Description | Qty | Rate | Amount |
|---|---|---|---|
| Date<br>**DEMOLITION PROPERTY # 4**<br>**Address**<br>Remove all existing utilities in accordance with the laws of the City of XXX or the regulatory agency for the specific utility. NOTE --- The City of XXX will disconnect or have all utilities disconnected and capped off for their future use.<br><br>Demolition of entire house or structure or mobile home, concrete slabs, stairs, foundation, and any other concrete or rock structures that are discovered during the demolition process. All items are to be removed from the site by the contractor, unless there is a basement, in which the unpainted or lead free masonry, concrete and rock materials may be deposited in the basement after basement walls are removed to at least 2 feet below grade of lot and basement floor is satisfactorily broken to allow for drainage of water through it. If there is no basement area that can be used for the disposal of the foundation materials, then complete removal of all concrete footings and supports off of the site is part of this work. Backfill the excavated areas and the existing crawl space or area over the basement with at least 18 inches or more of dirt over any concrete or rock materials. The backfilled areas are to be made level or match the existing slope of the adjacent site. Compact the soil by tracking with a wheel type loader or other approved equipment. Approval will be by the inspector. Remove all trash from site. Do not allow trash to be blown off of site. Clean up daily. The entire lot shall be free of debris, unless otherwise specified. Grade for natural drainage off of site.<br><br>Remove all trailers, vehicles, vehicle parts, signs, fences, and posts in their entirety unless otherwise specified at the walkthrough. Pump out and close all septic tanks and cisterns, per county health department guidelines, and legally dispose of contents.<br><br>All water wells will be closed, unless otherwise noted at the walkthrough, according to MO DNR guidelines. | | | |

COMMUNITY DEVELOPMENT BLOCK GRANT REGULATIONS

# BONDING AND INSURANCE REQUIREMENTS

A state or local unit of government receiving a grant from the Federal government, which requires contracting for construction or facility improvement shall follow its own requirements relating to bid guarantees, performance bonds, and payment bonds, except for contracts or subcontracts exceeding $25,000. For contracts or subcontracts exceeding $25,000, the Federal agency may accept the bonding policy and requirements of the grantee provided the Federal agency has made a determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

A performance bond on the part of the contractor for 100 percent of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

A payment bond on the part of the contractor for 100 percent of the contract price. **IF CONTRACT PRICE EXCEEDS $50,000.** A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

# BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto _____ as owner in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns, this _____ day of _____, 20 _____.

The condition of the above obligation is such that whereas the Principal has submitted to _____ a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the _____
_____
_____
_____ .

NOW, THEREFORE,

If said Bid shall be rejected, or in the alternate,

If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by the extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____ (L.S.)

Principal

SEAL

_____

By:_____

# NOTICE TO PROCEED

**Issued to:** _____

_____

_____

**RE:** **City of**

**CDBG Project Number:**

**Address:**

Enclosed is your executed copy of the Contract dated _____for the demolition of the property located at _____ pursuant to the provision of the Contract, you are hereby given notice to proceed with the work. Your attention is invited to the requirement that the work shall be completed within ___calendar days of this Notice.

Please acknowledge receipt of the Notice to Proceed as shown below and return a signed copy. You are not to proceed with the work until such time as this Notice is returned to and received by the City.

_____
Signature of Authorized Official

City of _____

The above Notice was received on _____ which establishes the completion date of _____.

_____

Contractor Signature

# DEMOLITION CONTRACT

**THIS AGREEMENT** made and entered into this _____ day of _____, 20___, by and between _____, hereinafter called the "Contractor," _____, hereinafter called the "Owner." In consideration of the mutual promises and agreements contained herein, the undersigned Contractor and Owner agree as follows:

**The Contractor shall comply with the following provisions:**

1. **LABOR, MATERIALS AND WORK WRITE-UP**: Contractor will furnish all labor, materials, supervision, and services necessary to do the work specified in the "Work write-up" attached and made a part hereof for the total sum of $ _____.

2. **NOTICE TO PROCEED**: Contractor shall not begin the work to be performed until receipt of written Notice to Proceed, after which the Contractor shall begin the work within ten calendar days of the date of said Notice, and shall complete said work within _____ calendar days thereafter.

3. **INSURANCE**: Contractor shall purchase and maintain, at their own expense insurance that will protect him from claims set forth below which may arise out of or result from the Contractor's or by an Subcontractor's work:

Claims under workers compensation, disability benefit and other similar employee benefit acts

Claims for damages because of bodily injury, occupational sickness or diseases, or death of his employees

Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees

Claims for damages insured by usual personal injury liability coverage which are sustained 1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or 2) by any other person

Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from

Bodily injury insurance shall be, at a minimum, in the amount of $100,000

The Contractor shall procure and maintain, at his own expense, during the contract time, public liability insurance as required by the Owner, at a minimum, in the amount of $300,000

Certificates of Insurance shall be filed with the Owner prior to commencement of work. Certificates shall contain a provision that coverage will not be cancelled unless at least fifteen (15) days prior written notice has been given

4. **SPECIFICATIONS, CODES AND REGULATIONS**: Contractor shall comply with all appropriate specifications and codes referred to and with all regulations, ordinances and laws of the Owner , the State of Missouri, and the Federal Government, and permit reasonable inspection of all work by authorized inspectors

5. **ASBESTOS COMPLIANCE**: Contractor shall comply with the Missouri Air Conservation law, Rs.Mo.643, Sections 225-250, Missouri regulation 10 CFR 10.6.080, 10 CFR 6.240, and 10 CFR 6.250, EPA regulations at 40 CFR Part 61 governing asbestos, and OSHA worker protection regulations

6. **PERMITS AND LICENSES**: Contractor will obtain and pay for all permits and licenses necessary for the completion and execution of the work and labor to be performed.

7. **DEBRIS AND MATERIAL REMOVAL**: Contractor shall keep the premises clean and orderly during the course of the work and remove all debris as it accumulates. Materials and equipment that have been removed and replaced as part of the work shall belong to the contractor, unless specifically spelled-out in the "Work write-up". Dispose of demolition debris in compliance with State and Federal laws.

8. **ASSIGNMENTS AND SUBCONTRACTS**: Contractor shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or invitation), without prior written consent of the Owner thereto: Provided, however, that the claims for money by Contractor from the Owner under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Owner.

9. **TERMINATION OF CONTRACT FOR CAUSE**: If through any cause, Contractor shall fail to fulfill in a timely and proper manner their obligations under this Contract, of if Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the Owner shall thereupon have the right to terminate this Contract by giving written notice to Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents and reports prepared by Contractor under this Contract shall, at the option of the Owner, become its property and Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed thereunder.

> Notwithstanding the above, Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of Contract by Contractor, and the Owner may withhold any payments to Contractor for the purpose of set-off until such time as the exact amount of damages due to the Owner from Contractor is determined.

10. **TERMINATION FOR CONVENIENCE BY THE OWNER**: The Owner may terminate this Contract at any time by giving at least ten (10) days notice in writing to Contractor. If the Contract is terminated by the Owner as provided herein. Contractor will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Contractor, Paragraph 1 hereof to termination shall apply.

11. **PAYMENTS TO CONTRACTOR**: Owner may authorize a draw at the completion of each individual property, with 10% retainage withheld in emergency situations. However, normally the Owner will make a single payment upon completion of each property. Lien releases must be provided prior to any payment being made to the Contractor.

12. **ACCEPTANCE OF FINAL PAYMENT AS RELEASE:** Contractor's acceptance of final payment shall be a release to the Owner of all claims and all liability to the Contractor.

13. **CHANGES**: Owner may, from time to time request changes in the scope of the work without invalidating the Contract. If such changes increase or decrease the amount due under the Contract, or in the time required for performance of the work, an equitable adjustment shall be authorized by Change Order. The Owner shall review and give final approval to all Change Orders.

14. **TIME FOR COMPLETION AND LIQUIDATED DAMAGES**: If the Contractor fails to complete the work within the Contract Time or extension of time granted by the Owner, then the Contractor may be required to pay to the Owner the amount of $____/day for liquidated damages for each calendar day that the Contractor shall be in default after the time stipulated in the Contract Documents.

15. **PROTECTION OF LIVES AND HEALTH:** Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter

XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971. Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Contracting Authority may determine to be reasonably necessary.

**Safety Training**

a. Contractor shall provide a ten (10) hour Occupational Safety and Health Administration (OSHA) construction safety program for all employees who will be on-site at the Project. The construction safety program shall include a course in construction safety and health that is approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program as required by Section 292.675, RSMo.

b. Contractor shall require its on-site employees to complete a construction safety program within sixty (60) days after the date work on the Project commences.

c. Contractor acknowledges and agrees that any of Contractor's employees found on the Project site without documentation of the successful completion of a construction safety program shall be required to produce such documentation within twenty (20) days, or will be subject to removal from the Project.

d. Contractor shall require all of its Subcontractors to comply with the requirements of this Section and Section 292.675, RSMo.

**Notice of Penalties for Failure to Provide Safety Training**

a. Pursuant to Section 292.675, RSMo, Contractor shall forfeit to City as a penalty two thousand five hundred dollars ($2,500), plus one hundred dollars ($100.00) for each on-site employee employed by Contractor or its Subcontractor, for each calendar day, or portion thereof, such on-site employee is employed without the construction safety training required in above Paragraph.

b. The penalty described in Subsection a. of this Section shall not begin to accrue until the time periods described in Paragraph b and c above have elapsed.

c. Violations of above Paragraph and imposition of the penalty described in this Section shall be investigated and determined by the Missouri Department of Labor and Industrial Relations.

16. **REGULATIONS PURSUANT TO SO-CALLED "ANIT-KICKBACK ACT" Title 18, U.S.C**.

874 Kickbacks from public works employees: Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

17. **AUTHORIZED EMPLOYEES:** Contractor acknowledges that Section285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the state of Missouri. Contractor therefore covenants that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.

# PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

_____
(Name of Contractor)

_____
(Address of Contractor)

a _____, hereinafter called Principal, and
(Corporation, Partnership or Individual)

_____
(Name of Surety)

_____
(Address of Surety)
hereinafter called Surety, are held and firmly bound unto

_____
(Name of Owner)

_____
(Address of Owner)

hereinafter called OWNER in the total aggregate penal sum of _____

Dollars ($ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain CONTRACT with the OWNER, dated the _____day of _____ 20 _____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said CONTRACT during the original term thereof, and any extensions thereof which may be granted by the OWNER with or without notice to the SURETY and during the one year guaranty period and if the PRINCIPAL shall satisfy all claims and demands incurred under such CONTRACT, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said SURETY, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the CONTRACT or to WORK to be performed thereunder or the SPECIFICATIONS accompanying same shall in any way affect its obligation on this BOND, and

it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the CONTRACT or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the CONTRACT not increasing the CONTRACT price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND, and whether referring to this BOND, the CONTRACT or the Loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER that no final settlement between the OWNER and the PRINCIPAL shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The OWNER are the only beneficiaries hereunder.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which
(Number)

shall be deemed an original, this the _____ day of _____.

ATTEST:

_____
Principal

_____
(Principal) Secretary

(SEAL)

By _____

_____ _____
(Witness as to Principal) (Address)

_____
(Address)

_____ _____
Surety

ATTEST:

_____ BY _____
Witness to Surety Attorney-in-Fact

_____ _____
(Address) (Address)

_____ _____

NOTE: Date of BOND must not be prior to date of CONTRACT.
If CONTRACTOR is partnership, all partners should execute BOND.
IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

# PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

_____
(Name of Contractor)

_____
(Address of Contractor)

a _____, hereinafter called Principal, and
(Corporation, Partnership or Individual)

_____
(Name of Surety)
hereinafter called Surety, are held and firmly bound unto

_____
(Name of Owner)

_____
(Address of Owner)

hereinafter called OWNER, and unto all persons, firms and corporations who or which may furnish labor, or who furnish materials to perform as described under the CONTRACT and to their successors and assigns in the total aggregate penal sum of _____

Dollars ($ _____)in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain CONTRACT with the OWNER, dated the _____day of _____ 20 _____, a copy of which is hereto attached and made a part hereof for the construction of:
NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such CONTRACT, and any authorized extensions or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK and for all labor cost incurred in such WORK including that by a SUBCONTRACTOR, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.
PROVIDED, that beneficiaries or claimants hereunder shall be limited to the SUBCONTRACTORS, and persons, firms, and corporations having s direct contract with the PRINCIPAL or its SUBCONTRACTORS.
PROVIDED, FURTHER, that the said SURETY for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the CONTRACT or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this CONTRACT or to the WORK or to the SPECIFICAITONS.
PROVIDE, FURTHER, that no suit or action shall be commenced hereunder by any claimant: (a) Unless claimant, other than one having a direct CONTRACT with the PRINCIPAL (or with the GOVERNMENT in the event the GOVERNMENT is performing the obligations of the OWNER), shall have given written notice to any

two of the following: the PRINCIPAL, the OWNER, or the SURETY above named within ninety (90) days after such claimant did or performed the last of the WORK or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the WORK or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date of which PRINCIPAL ceased WORK on said CONTRACT, is being understood, however, that if any limitation embodied in the BOND is prohibited by law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the CONTRACT not increasing the CONTRACT price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND and whether referring to this BOND, the CONTRACT or the loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER or GOVERNMENT and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each one of which
(Number)

shall be deemed an original, this the _____ day of _____.

ATTEST:

_____
Principal

_____
(Principal) Secretary

(SEAL)

By _____

_____

_____ _____
(Witness as to Principal) (Address)

_____
(Address)

_____ _____
Surety

ATTEST:

_____ BY _____
Witness to Surety Attorney-in-Fact

_____ _____
(Address) (Address)

_____ _____

NOTE: Date of BOND must not be prior to date of CONTRACT

If CONTRACTOR is partnership, all partners should execute BOND. IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

# CERTIFICATION OF BIDDER

# REGARDING EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause, and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

NAME AND ADDRESS OF BIDDER (Include ZIP Code):

Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

☐ YES ☐ NO

**3.** Compliance reports were required to be filed in connection with such contract or subcontract.

☐ YES ☐ NO

**4.** Bidder has filed all compliance reports due under applicable instructions.

☐ YES ☐ NO

**5.** Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

☐ YES ☐ NO

NAME AND TITLE OF SIGNER (Please type):

SIGNATURE DATE

## CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT OPPORTUNITY

NAME OF PRIME CONTRACTOR | PROJECT NUMBER

INSTRUCTIONS:

The certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the subcontractor has not filed a compliance report due under applicable instructions, such subcontractor shall be required to submit a compliance report before the owner approves the subcontract or permits work to begin under the subcontract.

SUBCONTRACTOR'S CERTIFICATION

NAME AND ADDRESS OF SUBCONTRACTOR (Include ZIP Code):

Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

☐ YES ☐ NO

**6.** Compliance reports were required to be filed in connection with such contract or subcontract.

☐ YES ☐ NO

**7.** Bidder has filed all compliance reports due under applicable instructions.

☐ YES ☐ NO

**8.** Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

☐ YES ☐ NO

NAME AND TITLE OF SIGNER (Please type):

SIGNATURE: | DATE:

# Certificate of Contemplated Minority, Women, and Section 3 Business Utilization

The undersigned makes this affidavit with full knowledge that its contests will be used in the expenditure of funds provided by the United States Government. Under penalty of perjury, he/she herby states:

**Section 3 Status**

I am the (owner, partner, officer, representative, or agent) of _____, the Bidder that has submitted the attached Bid; and whose business concern is:

- ☐ 51 percent or more owned by Section 3 residents; or
- ☐ Has permanent, full-time employees, at least 30 percent of whom are currently Section 3 residents, or were Section 3 residents within three (3) years of the date of first employment with the business concern; or
- ☐ None of the above; no Section 3 preference claimed.

**Subcontractors**

- ☐ I will be utilizing subcontractors of suppliers.
- ☐ I will ***not*** be utilizing subcontractors or suppliers.

If subcontractors or supplies will be utilized, please list all Minority, Women, and Section 3 firms or suppliers that were contacted or that will be utilized for this activity. Use additional sheets if necessary.

Subcontractor _____ MBE ☐ WBE ☐ Section 3 ☐

Address _____ Bid Amount _____

Trade or Supplier _____

Bid Accepted: ☐ Yes ☐ If No, explain _____

Subcontractor _____ MBE ☐ WBE ☐ Section 3 ☐

Address _____ Bid Amount _____

Trade or Supplier _____

Bid Accepted: ☐ Yes ☐ No If No, explain _____

Subcontractor _____ MBE ☐ WBE ☐ Section 3 ☐

Address _____ Bid Amount _____

Trade or Supplier _____

Bid Accepted: ☐ Yes ☐ No If No, explain _____

**Certificate of Contemplated Minority, Women, and Section 3 Business Utilization**

**Hiring of Additional Workers**

☐ I will be hiring additional workers to complete this activity.

☐ I will ***not*** be hiring additional workers to complete this activity.

Listed below are the Section 3 employment opportunities which are herein incorporated and made part of the contract's bid documentation. If new positions will be filled, please complete:

| **Occupation** | **Needed** | **To Be Hired** | **Apprentices*** | **Trainees*** |
|---|---|---|---|---|
| Carpenters | | | | |
| Electricians | | | | |
| Power Equipment Operations | | | | |
| Ironworkers | | | | |
| Laborers | | | | |
| Plumbers/Pipefitters | | | | |
| Masons | | | | |
| Other: | | | | |
| Other: | | | | |

*Attach copies of program and apprentice certifications by the Missouri or U.S. Bureaus of Apprenticeship and Training.

**Certification**

**In Witness Thereof**, Contractor has executed his certificate this_____ _____ day of _____

20 _____.

Contractor Name _____

Federal ID _____ DUNS _____

Signature of Authorized Agent _____

Printed Name _____ Date _____

# U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

# SUPPLEMENTAL GENERAL CONDITIONS

1. SPECIAL EQUAL OPPORTUNITY PROVISIONS

A. Activities and Contracts Not Subject to Executive Order 11246, as Amended.

(Applicable to Federally assisted construction contracts and related subcontracts $10,000 and under.)

During the performance of this contract, the contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

3. Contractors shall incorporate foregoing requirements in all subcontracts.

B. Executive Order 11246 (Contracts/subcontracts above $10,000)

1. Section 202 Equal Opportunity Clause

During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract understanding, a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation, to ascertain compliance with such rules, regulations, and others.

f. In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 or September, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of the sentence immediately preceding paragraph (a) and the provisions of paragraph (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department the contractor may request the United States to enter into such litigation to protect the interest of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work. Provided, that if the applicant so participating is a State of local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government that does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee), refrain from

extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurances of future compliance have been received from such applicant, and refer the case to the Department of Justice for appropriate legal proceedings.

2. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246). (Applicable to contracts/subcontracts exceeding $10,000.00.)

   a. The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

   b. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

| Goals for minority participation: | Goals for Female participation: |
|---|---|
| 10% | 10% |

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with the Executive Order and the regulation in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

   c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

   d. As used in this Notice, and in the contract resulting from this solicitation, the “covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any).

3. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

a. As used in these specifications:

   1. "Covered area" means the geographical area described in the solicitation from which this contract resulted

   2. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority

   3. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941

   4. "Minority" includes:

      i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin)

      ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race)

      iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands)

      iv. American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification)

b. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

c. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractors failure to take good faith efforts to achieve the Plan goals and timetables.

d. The Contractor shall implement the specific affirmative action standards provided in paragraphs g1 through 17 of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice from and such notices may be obtained from any Office of

Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

e. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

f. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must make a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

g. The Contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following.

    1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

    2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

    3. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

    4. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

    5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor.

The Contractor shall provide notice of these programs to the sources complied under g2 above.

6. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
9. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other area of a Contractor's work force.
11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
13. Ensure that seniority practices, job classifications, work assignments, and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure EEO policy and the Contractor's obligations under these specifications are being carried out.

14. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

16. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

17. Covered construction contractors performing contracts in geographical area where they do not have a Federal or Federally assisted construction contract shall apply the minority and female goals established for the geographical area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

h. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (g1 through 17). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under g1 through 17 of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.

i. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

j. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

k. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

l. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontract as may be imposed or ordered pursuant to Executive Order 11246 as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and

penalties shall be in violation of these specifications, and Executive Order 11246, as amended.

m. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least extensive as those standards prescribed in paragraph g of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall precede in accordance with 41 CFR 60-4.8.

n. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate to pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

o. Nothing herein provided shall be construed as a limitation upon the application of other laws, which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

C. Certification of Non-Segregated Facilities (Over $10,000)

By the submission of this bid, the bidder, offerer, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facility at any of his establishments, and that he does not permit employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for employees any segregated facilities at any of his establishments, and he will not permit employees to perform their services at any location under his control where segregated facilities are maintained. The bidder, offerer, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, *transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he will retain such certification in his files; and that he will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

* Parking lots, drinking fountains, recreation, or entertainment areas.

D. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this said contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth the minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

The contractor will certify that any vacant employment positions including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other that those to whom the regulations in 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligation under 24 CFR Part 135.

The contractor agrees to submit such reports as required to document compliance with 24 CFR Part 135. Noncompliance with the regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

2. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS
**(Applicable to Federally assisted construction contracts and related subcontracts exceeding $100,000.)**

Compliance with Air and Water Acts

During the performance of this contract, the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 7401 et seq., the Clean Water Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner the following:

A. A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the list of Violating Facilities issued by the Environmental Protection Agency (EPA).

B. Agreement by the contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 7413) and Section 308 of the Clean Water Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, or EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.

D. Agreement by the Contractor that he/she will include, or cause to be included, the criteria and requirements in paragraph (A) through (D) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

3. SPECIAL CONDITIONS PERTAINING TO HAZARDS SAFETY STANDARDS AND ACCIDENT PREVENTION

A. Lead-Based Paint Hazards

**(Applicable to contracts for construction or rehabilitation of residential structures.)**

The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35 and Revised Missouri Statutes 700.300 - 338. The Contractor and Subcontractor shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14 (f) thereof.

B. Use of Explosives

When the use of explosives is necessary for the prosecution of the work the Contractor shall observe all local, state, and Federal laws in purchasing and handling explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, waterlines, or there underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel, or rope mats.

The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done close to such property. Any supervision or direction of use of explosives by the Engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be cause by such use.

C. Danger Signals and Safety Devices (Modify as required)

The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. The Contractor shall put up and maintain in good condition sufficient red or warning lights at night, suitable barricades, and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

# SUMMARY OF CIVIL RIGHTS LAWS, EXECUTIVE ORDERS, AND REGULATION

CDBG grantees must assure that all project activities will be administered in compliance with civil rights laws and regulations. The following are summaries of those parts of the civil rights laws and regulations that are applicable to CDBG activities.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Title VIII of the Civil Rights Act of 1968, as amended, provides that no person shall, on the basis of race, color, religion, sex, national origin, handicap, or familial status, be discriminated against in housing (and related facilities) provided with Federal assistance or lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the Federal Government.

Section 109 of the Housing and Community Development (HCD) Act of 1974, as amended, provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.

Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that, to the greatest extent feasible, opportunities for training and employment shall be given to recipients of public housing and lower-income residents of the unit of local government or the metropolitan area (or non-metropolitan county) in which the project is located. Contract work in connection with such projects shall be awarded to business concerns which are owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project, employ Section 3 residents in full-time positions, or subcontract with businesses which provide economic opportunities to lower income persons.

Section 503 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination in contractor employment. All recipients of Federal funds must certify Affirmative Action for Handicapped Workers in all contracts issued:

1. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
4. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
5. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of

Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

6. The contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his/her handicap in benefiting from any program or activity receiving Federal financial assistance. All recipients must certify to compliance with all provisions of Section 504.

Age Discrimination Act of 1975 provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Executive Order 11063, as amended, directs all departments and agencies to take all action necessary and appropriate to prevent discrimination in housing and related facilities owned or operated by the Federal Government or provided with Federal financial assistance, and in the lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans insured or guaranteed by the Federal Government.

Executive Order 11246, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment during the performance of Federal or Federally-assisted construction contracts in excess of $10,000. Grantees shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally-assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on Federal or Federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training and apprenticeship.

Section 106(d)(5)(B) of Title I of the Housing Community Development Act of 1974, as amended, provides that the grantee will affirmatively further fair housing.

Section 519 of Public Law 101-144 (the 1990 HUD Appropriations Act) requires each unit of general local government which receives Title I funds to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations.

Section 906 of the Cranston-Gonzales National Affordable Housing Act, as amended by subsection 104(1) of the HCD Act of 1974, states that no CDBG funds may be obligated or expended to any unit of general local government that fails to adopt and enforce a policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations, or fails to adopt and enforce a policy of applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within its jurisdiction.

Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with the planning and carrying

out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Consultant shall take appropriate steps to assure compliance.

Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Consultant shall take appropriate steps to assure compliance.

## GENERAL PROVISIONS

**1.** This contract embodies all the representatives, rights, duties and obligations of the parties, and any prior oral or written agreement not embodied herein shall not be binding upon or endure to the benefit of any of the parties.

**2**. The Contractor agrees to perform the work required by this contract, and the Owner agrees that neither he nor the members of his family, his tenants, agents or employees will hinder the Contractor in his work in carrying out HUD requirements and city codes and policies.

**3**. No member, officer or employee of the City of_____ or its designees or agents, no member of the Governing Body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement.

THIS CONTRACT AND ALL TERMS AND CONDITIONS CONTAINED HEREIN ARE APPROVED AND ACCEPTED AS OF THE DATE FIRST ABOVE WRITTEN.

| | |
|---|---|
| Contractor | Owner |
| By | |
| Address | Address |
| Telephone | Mayor or Authorized City Official |

STATE OF MISSOURI ) )ss
COUNTY OF _____)

AFFIDAVIT
(as required by Section 285.530, Revised Statues of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:
EMPLOYEE: Any person performing work or service of any kind for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM: Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY: A person acts knowingly or with knowledge,
(a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or
(b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN: An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared _____, who, being duly sworn, states on his oath or affirmation as follows:

1. My name is _____ and I am currently the President of _____(hereinafter "Contractor"), whose business address is _____ "and I am authorized to make this Affidavit.

2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and _____

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.
5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant sayeth not.

_____
Affiant

Subscribed and sworn to before me this _____day of _____, 201_.
Commission #

# CERTIFICATE OF FINAL INSPECTION
# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

City of _____, MO

Property Number_____
Property Owner Name:_____
Property Address:_____

## CERTIFICATION OF COMPLETION AND FINAL INSPECTION

Final inspection has been made of the property demolished with Community Development Block Grant assistance. The demolition work has been satisfactorily completed in accordance with the CDBG contract. The property now conforms to the requirements of the Work Write-Up and Specification established for this property.

_____ _____
Date Inspector

The Property Owner hereby accepts as satisfactory the demolition work performed by the contractor authorized by the City of _____, Missouri under the guidelines of the Community Development Block Grant Program.

_____ _____
Date Property Owner

_____ _____
Date Demolition Contractor

_____ _____
Date Authorized City Official

Comments:_____

_____

_____

# Demolition Tracking Sheet

Grantee_____ Project #_____

Property Owner_____
Address_____
Demolition Contractor_____
Amount of Contract_____
CDBG amount of contract_____
Property owner amount of contract_____
RFF # & Amount_____
RFF # & Amount_____
RFF # & Amount_____
RFF # & Amount_____

Demolition Inspector_____
Demolition Inspector Contract Amount_____
RFF#_____ Amount $_____

Asbestos Inspector_____
Asbestos Inspector Contract Amount_____
RFF #_____ Amount $_____

Asbestos Abatement Contractor_____
Asbestos Abatement Contract Amount_____
RFF #_____ Amount $_____

Missouri Department of Natural Resources

**CONSTRUCTION AND DEMOLITION WASTE GUIDANCE**

Solid Waste Management Program fact sheet 11/2015

Division of Environmental Quality Director: Ed Galbraith PUB2242

As Missouri communities continue to grow, older buildings are being renovated or demolished to make room for newer, more modern buildings. Properly managing waste during demolition helps prevent threats to human health and the environment.

If a demolition or renovation project is entered with an eye toward the environment and human health, the impact to both can be lessened or even removed. This will allow communities to continue to grow in harmony with the citizens and environment.

**Construction and Demolition Waste Regulations**

The Missouri Department of Natural Resources regulates demolition and renovation projects for institutional, commercial, public and industrial structures. The department also regulates residential structure projects such as apartment buildings with more than four units or two or more residential structures that are a part of the same project. Single family residential structures or other residential structures containing four units or less are exempt from most asbestos regulations. However, all construction, demolition and renovation wastes are regulated under the Solid Waste Management Law.

All construction, renovation and demolition waste must be properly disposed of at a permitted transfer station or landfill regardless of whether it was generated from a commercial or residential structure. Before a regulated renovation or demolition project begins, the business or entity requesting the work should make the waste disposal a part of the contract. This will deflect liability if the waste is not properly managed and should be considered by the contractors during the bid process. Demolition or renovation operations can create several different kinds of waste:

- **Clean fill** includes uncontaminated soil, rock, sand, gravel, asphaltic concrete, blocks and bricks, and minimal amounts of wood, metal and inert solids. Minimal means the smallest amount possible. These can be used to fill in excavated holes from demolition or construction projects.
- **Recovered materials** include doors and windows can be removed for reuse, or scrap metal and asphalt shingles can be taken to a recycling center.
- **Regulated wastes** are wastes that cannot be used as clean fill and cannot be recovered for reuse or recycling. These wastes must be taken to a permitted landfill or transfer station for proper disposal.
- **Hazardous waste and asbestos containing material** - The most common hazardous materials encountered during demolition and renovation projects are lead paint and objects contaminated by lead paint. There are many rules and regulations regarding management and disposal of hazardous and asbestos containing materials.

For more information about clean fill, recovered materials or regulated wastes contact the department's Solid Waste Management Program at 573-751-5401 or see the fact sheet *Managing Construction and Demolition Wastes,* PUB2045, available on the department's website at www.dnr.mo.gov/pubs/pub2045.htm. For more information about proper hazardous waste disposal contact the department's Hazardous Waste Program at 573-751-3176.

**Asbestos**

Asbestos is a naturally occurring mineral fiber. It can be positively identified only with a special type of microscope. Because the fibers are so small, they can float into the air, where they can be inhaled and accumulate in the lungs. This can lead to diseases like asbestosis, mesothelioma and lung cancer.

Most products made today do not contain asbestos. However, until the 1970s, asbestos was added to a variety of products to strengthen them and to provide heat insulation and fire resistance.

For more information about the proper disposal of asbestos containing materials, contact the department's Air

Pollution Control Program at 573-751-4817 or see the fact sheet *Asbestos: What is it and why is it a concern?,* PUB2077, available on the department's website at http://dnr.mo.gov/pubs/pub2077.htm.

**Asbestos Inspection Requirements**

Additionally, before a regulated project begins, a state certified asbestos inspector must inspect the entire structure for asbestos containing material. If the inspector finds regulated quantities of asbestos containing material or assumes it to be in the structure, an asbestos abatement contractor must complete the project. Abatement contractors are trained in the proper procedures for safely removing and disposing of asbestos containing material. The Department of Natural Resources has a listing of Missouri-certified asbestos professionals and training providers on the department's website at www.dnr.mo.gov/env/apcp/asbestos.htm.

The department requires notification for all regulated demolition and asbestos abatement projects. The information must be submitted to the department's Air Pollution Control Program at least 10 working days before the project begins. Review *Asbestos Requirements for Demolition and Renovation Projects*, PUB2157 at http://dnr.mo.gov/pubs/pub2157.htm for more information regarding these requirements.

**Open Burning of Construction or Demolition Waste**

It is important to note there are limited circumstances where waste from a renovation or demolition project may be open burned in Missouri. Untreated wood waste in limited circumstances may be open burned with a permit from the Department of Natural Resources. The burning of waste can lead to toxic emissions like dioxins, volatile organic compounds and hydrogen chloride. Those nearby the burn site could potentially experience skin and eye irritation, respiratory problems, and even central nervous system issues like headaches or dizziness.

For more information about open burning, contact the department's Air Pollution Control Program at 573-751-4817 see the fact sheet *Facts on Open Burning under Missouri's Regulations,* PUB2047 available at http://dnr.mo.gov/pubs/pub2047.htm.

**Local Ordinances**

There may be local ordinances stricter than the state's rules and regulations. Any business or entity beginning a renovation or demolition project should be aware of all of the ordinances and regulations affecting them before the project starts.

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**Nothing in this document may be used to implement any enforcement action or levy any penalty unless promulgated by rule under chapter 536 or authorized by statute.**

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**For more information**

Missouri Department of Natural Resources
Solid Waste Management Program
P.O. Box 176
Jefferson City, MO 65102-0176
800-361-4827 or 573-751-5401
http://dnr.mo.gov/env/swmp

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Missouri Department of Natural Resources

# MANAGING CONSTRUCTION AND DEMOLITION WASTE

Solid Waste Management Program fact sheet 02/2017

Division of Environmental Quality Acting Director: Steve Feeler PUB2045

This guidance is provided primarily for construction and demolition contractors, waste haulers, roofing contractors, remodeling businesses, homebuilders and homeowners. Cities and counties that issue building permits may also find the information helpful. The guidance covers only wastes commonly produced during building construction, renovation and demolition.

Information about managing other wastes is available by contacting the sources listed on the last page of this fact sheet.

This fact sheet is not intended for guidance on the management of surface coatings removed from bridges, water towers or other similar outdoor structures.

**Waste Types**

During construction, renovation and demolition activities you may produce one or more of the following types of residuals:

- Clean fill.
- Recovered materials.
- Regulated construction and demolition waste.
- Hazardous materials and hazardous wastes.
- Asbestos-containing materials.

Management requirements differ for each of these.

**Clean Fill**

Clean fill is “uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinder blocks, brick, minimal amounts of wood and metal and inert (non-reactive) solids...for fill, reclamation or other beneficial use” (§260.200.1.(6), RSMo). Minimal means the smallest amount possible. For example, concrete containing wire mesh or rebar may be used as clean fill. However, exposed rebar must be removed before use. Under no circumstances are roofing shingles, sheet rock, wood waste or other construction and demolition wastes defined as clean fill.

Concrete, cinder blocks, bricks or other clean fill materials that are painted with non- heavy metal-based paints are also considered clean fill. It is the generator’s responsibility to determine if the painted materials are hazardous wastes. The most typical contaminants are lead and other heavy metals. This determination can be made by representative sampling or by applying historical knowledge of the materials in question.

If asphaltic concrete is to be used as clean fill it is recommended that it not be crushed or ground any smaller than necessary. This will help to minimize the leaching of chemicals found within the asphaltic material.

Although not regulated as waste, placement of clean fill materials may be subject to requirements of the Missouri Department of Natural Resources’ Water Protection Branch if it is placed in contact with surface or subsurface waters of the state, or would otherwise violate water quality standards. Contact the Water Protection Program at 573-751-1300 if you have any questions. Local requirements concerning the use of clean fill may apply as well. Contact the Hazardous Waste Program at 573-751-3176 for questions about determining whether materials may be hazardous and for disposal options.

**Recovered Materials**

Recovered Materials are those removed for reuse (lumber, doors, windows, ceramic tile and glass) and those removed to be recycled into new products. Potentially recyclable construction and demolition wastes may include scrap metals, asphalt shingles, sheet rock, lumber, glass and electrical wire. However, it is important to remember that recovered waste must be used in some way.

Separating out certain wastes to be recycled into new products without having a market for them is expensive and pointless. Storing recovered materials indoors is expensive. Storing them outdoors may lower their value, since most will degrade or deteriorate when exposed to the weather. Depending on how they are stored, they may harbor rodents, provide breeding grounds for insects or be a potential fire hazard. Recyclables may not be collected and dumped on the ground while waiting for markets to develop. Therefore, before you deliver recyclable materials to a processing or recovery facility be sure the facility is legitimate.

The department's Solid Waste Management Program has information about many recycling facilities in Missouri. You may contact the program at 573-751-5401 or available on the Web at www.dnr.mo.gov/env/swmp/rrr/rrr.htm. If you plan to remove reusable or recyclable materials from construction and demolition waste, the sorting must take place at the construction or demolition site. The wastes cannot be hauled from the site and dumped for later sorting, except at a permitted processing facility or at a facility that has received a permit exemption from Solid Waste Management Program. Although the department strongly encourages the recovery or recycling of potential waste materials whenever possible, these activities must be done legally.

**Regulated Construction and Demolition Wastes**

Regulated construction and demolition wastes are those not classified as clean fill and not being reused or recycled. Regulated non-hazardous construction and demolition wastes must be disposed of at a permitted landfill or transfer station.

To avoid violating air and solid waste laws regulated non-hazardous construction and demolition wastes:

- Cannot be burned. An open burning permit may be applied for to burn untreated wood waste. Contact your nearest regional office for permit information and conditions.
- Cannot be buried (except in a permitted landfill).
- Cannot be hauled to private or public property and dumped, burned or buried, even with the landowner's permission.

If this happens, everyone involved, including the contractor(s), subcontractor(s), the hauler(s) and the landowner(s) can and will be held liable for the illegal disposal (§§260.210, 260.211 and 260.212, RSMo).

If you are a building contractor, you need to know that burying construction waste from a building anywhere on the property is illegal (§260.210.1, RSMo). See page four of this fact sheet for a description of penalties for illegal disposal of construction and demolition waste.

**Hazardous Materials and Hazardous Wastes**

Although you may find a variety of hazardous materials in old buildings, lead-based paint and asbestos are the most common items dealt with by demolition contractors.

Studies conducted by the U.S. Agency for Toxic Substances and Disease Registry, and by independent researchers, show that the health effects of lead exposure are greater than previously thought. Children are especially vulnerable to the effects of lead poisoning. Because lead and other toxic heavy metals may be contained in the wastes noted above, they require careful management and disposal. For many years, lead-based paint was used in residences and businesses for its stable coating properties. Although lead-based paint was virtually banned by the Consumer Product Safety Commission in 1978 for residential application, it is often encountered when buildings are renovated or demolished. Also, lead-based paint is still manufactured and sold for corrosion or rust inhibition on steel structures and for other industrial purposes. In older buildings, lead was also used for roofs, cornices, tank linings and electrical conduits. In plumbing soft solder, an alloy of lead and tin was used for soldering tinplate and copper pipe joints.

Additional guidance for handling demolition waste containing lead-based paint or other heavy metals, such as cadmium or chromium, is available by calling the department's Hazardous Waste Program at 573-751-3176.

Hazardous waste requirements for demolition wastes - Demolition-related waste categories typically include:

- Paint Residue - Paint chips, paint scrapings and contaminated blast residue from building renovations or demolition projects.
- Demolition Debris - Masonry, metal and boards that have been painted with lead-based or other heavy metal-based paint.
- Scrap Metal - Metal objects that contain lead or other heavy metals.

For households, the following management options apply, whether or not a contractor is doing the work for you:

- Paint Residue - Paint residue may be placed in the household trash. Before disposal, wrap it tightly in a plastic bag or other container. It will be picked up by your trash hauler and taken to a sanitary landfill for disposal.
- Demolition Debris - May be placed in your household trash. It may be picked up by your trash hauler and taken to a sanitary or demolition landfill for disposal.
- Scrap Metal - Scrap metal should be taken to a salvage yard for recycling. If this is not possible, the metal may be placed in your household trash and picked up by your waste hauler for disposal at a sanitary or demolition landfill.

For generators other than households - This category includes commercial and business enterprises, institutions and industrial buildings, and other structures not specifically identified.

Paint Residue must be laboratory tested before disposal. The appropriate test method is the Toxicity Characteristic Leaching Procedure, EPA Method 1311, which is described in Appendix 11 of the Code of Federal Regulations, Title 40, Part 261(40 CFR Part 261). The test must include the eight metals noted in 40 CFR Part 261.24 (arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver). Environmental laboratories capable of conducting a Toxicity Characteristic Leaching Procedure may be found in the telephone directory's Yellow Pages. If one or more of analytical limits meets or exceeds the regulatory limit, the waste is hazardous. Hazardous wastes must be managed, transported and disposed of according to the Missouri Hazardous Waste Management Law and Regulations. This may require the generator to send paint residue to a permitted hazardous waste disposal facility. In some cases, a lead smelter may accept lead-based paints for use in its lead production processes. If laboratory analysis shows that the paint residue is non-hazardous, it must be disposed of at a sanitary landfill as "special waste." Paint residue may not be disposed of in a demolition landfill. Procedures for managing special wastes are included in the fact sheet titled Special Waste (PUB2050) available on the department's Web site at www.dnr.mo.gov/pubs/pub2050.htm. The landfill may require you to complete a special waste disposal request form, and provide the results of testing on the paint waste to show that it is not hazardous before accepting the waste.

Demolition debris need not be tested before disposal, so long as it is not chipped, shredded, milled, ground, mulched or similarly processed. Processed demolition waste should be evaluated as described for paint residue.

Scrap metal painted with heavy metals may be sent to a salvage yard for recycling. If this is not possible, the metal may be disposed of at a sanitary or demolition landfill.

**Asbestos**

All public, institutional or commercial buildings, and in some instances, residential structures, must be inspected for asbestos before renovation or demolition activities. Before planning a demolition project, bidding a project, letting a bid or beginning the demolition, it is important to know if the building has any asbestos-containing materials and who is responsible for removing them. Buildings may contain asbestos in materials such as ceiling or floor tile, as insulation or soundproofing on ceilings, pipes, ductwork or boilers, or on the outside as transite siding or in shingles. The presence of asbestos-containing materials cannot be confirmed just by looking.

A thorough inspection of any regulated building must be conducted by a Missouri certified asbestos inspector to determine the presence and condition of asbestos-containing materials.

Depending upon the results of the inspection, a registered asbestos abatement contractor may be required. Contact the department's Air Pollution Control Program's Asbestos Unit at 573-751-4817 for more specific information about managing asbestos-containing materials. Visit http://www.dnr.mo.gov/env/apcp/asbestos/index.htm for more information about asbestos requirements. If the asbestos-containing materials is to go to a landfill or transfer station, contact the facility in advance to see if they will accept materials and if they have any special handling or packaging requirements.

Penalties for illegal disposal of construction and demolition wastes The Missouri Solid Waste Management Law provides for civil penalties for persons who dispose of or allow the disposal of regulated construction and demolition wastes in un-permitted areas.

The law also contains criminal provisions for some types of illegal construction and demolition waste disposal. There may be additional penalties for violations of air, water pollution and hazardous waste laws depending on the situation and means of disposal.

Solid Waste Management Law Violations:

- **Civil Penalties** - any person who disposes of construction and demolition waste or allows the disposal of construction and demolition waste in an area not permitted for such disposal may be assessed a civil penalty of up to $5,000 per day per violation (§260.240, RSMo).
- **Criminal Penalties** - any person who purposely or knowingly disposes of or causes the disposal of regulated quantities of construction and demolition waste or other solid waste may be prosecuted for violating the criminal provisions of §§260.211 and 260.212, RSMo.

Convictions may include fines of $20,000 or more, community service, and/or clean-up of the illegally dumped waste. Conviction under §§ 260.211 and 260.212 is a class D Felony for the illegal disposal of residential or commercial waste and for accepting construction and demolition wastes for payment, whether in cash or trade, without a permit. In some cases, persons convicted of illegal dumping have served time in jail.

- **The Missouri Air Conservation Law** and regulations provide for civil penalties of up to $10,000 per day per violation for persons who violate the requirements for handling, packaging, transporting or disposing of asbestos-containing materials. The federal Clean Air Act also contains civil and criminal penalties for violations. The same penalties apply for persons who illegally dispose of construction and demolition waste by burning.

**Other Requirements**

Other legal requirements related to managing construction and demolition wastes include:

- Anyone engaged in building construction, modification or demolition must maintain a record of all sites used for construction and demolition waste disposal for one year. The records must be made available to department staff upon request (§260.210.7, RSMo).
- Cities and counties that issue building permits are required to notify each permittee in writing of the legal requirements for construction and demolition waste disposal (§260.210.8, RSMo).
- A person shall be guilty of conspiracy if he knows or should have known that his agent or employee has violated the civil or criminal provisions of the law related to illegal disposal of construction and demolition waste or other solid waste (§260.212.9, RSMo).
- Anyone selling, conveying or transferring property that contains construction and demolition waste or other solid waste (whether buried or not), must disclose the existence and location of the waste disposal site to a potential buyer early in the negotiation process (§260.213, RSMo).
- Anyone hauling materials that could fall or blow off a vehicle, including construction and demolition waste, must cover the load or secure it so that none of it can become dislodged and fall from the vehicle (§307.010, RSMo). In addition, many landfills and transfer stations in Missouri require all incoming loads to be covered. Some facilities accept open loads, but may charge you extra for them.
- A person commits the crime of littering if they throw or place, or cause to be thrown or placed, any garbage, trash, refuse or rubbish of any kind on the right-of-way of any public road or highway, in or on any waters of the state or the stream banks, and on any public or private property (owned by another without their consent) (§577.070, RSMo).

**Additional Information**

You may obtain additional information about properly managing construction and demolition wastes from the sources listed below.

Missouri Department of Natural Resources

- Air Pollution Control Program 573-751-4817
- Hazardous Waste Program 573-751-3176
- Solid Waste Management Program 573-751-5401

- Water Protection Program 573-751-1300
- Regional Offices
- Kansas City Regional Office 816-622-7000
- Northeast Regional Office (Macon) 660-385-8000
- St. Louis Regional Office 314-416-2960
- Southeast Regional Office (Poplar Bluff) 573-840-9750
- Southwest Regional Office (Springfield) 417-891-4300

**On the Web**

Construction and demolition information www.dnr.mo.gov/env/swmp/index.html
Environmental publications http://dnr.mo.gov/pubs/

**Additional Considerations and Sources**

Hazardous waste requirements are found in the Missouri Hazardous Waste Management Laws, Sections 260.345 through 260.575 of the Revised Statutes of Missouri (RSMo).The Missouri Hazardous Waste Regulations are found in Title 10, Division 25 of the Code of State Regulations. Most of the federal environmental requirements in Title 40 of the Code of Federal Regulations is adopted by reference into the Missouri regulations.

Solid waste requirements are found in the Solid Waste Management Law in Sections 260.200 through 260.345 RSMo, and the regulations in Title 10, Division 80 in the Code of State Regulations. Copies of the Revised Statutes of Missouri are available through the Revisor of Statutes at 573-526-1288, or are available online at http://www.moga.mo.gov/mostatutes/ChaptersIndex/chaptIndex260.html.

Copies of the Missouri Code of State Regulations are available through the Missouri Secretary of State at 573-751-4015, or are available online at http://www.sos.mo.gov/adrules/csr/csr.asp.

Federal regulations are available at federal depository libraries or may be purchased from a U.S. Government Bookstore, the U.S. Government Printing Office, or from a commercial information service such as the Bureau of National Affairs. Federal Regulations are also available online at http://www.ecfr.gov/cgi-bin/ECFR?page=browse.

**Other Guidance**

The Missouri Department of Health and Senior Services - Office of Lead Licensing and Accreditation may be contacted for information regarding training, licensure and work practice standards for lead abatement activities. Disposal is an abatement activity. See Missouri Revised Statutes 701.300 and 701.338.

Please note that many municipalities have their own additional requirements that might be stricter than those discussed above.

**For more information**

Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102-0176
800-361-4827 or 573-751-4817 office
573-751-2706 fax
www.dnr.mo.gov/env/apcp/index.html

Missouri Department of Natural Resources
Hazardous Waste Program
P.O. Box 176
Jefferson City, MO 65102-0176
800-361-4827 or 573-751-7560 office
573-751-7869 fax
www.dnr.mo.gov/env/hwp/index.html

Missouri Department of Health and Senior Services
Office of Lead Licensing and Accreditation
P.O. Box 570

Jefferson City, MO 65102-0570
888-837-0927 or 573-526-5873
573-526-0441 fax
www.dhss.mo.gov/Lead/

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**Nothing in this document may be used to implement any enforcement action or levy any penalty unless promulgated by rule under chapter 536 or authorized by statute.**

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**For more information**
Missouri Department of Natural Resources
Solid Waste Management Program
P.O. Box 176
Jefferson City, MO 65102-0176
800-361-4827 or 573-751-5401
http://dnr.mo.gov/env/swmp

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Missouri Department of Natural Resources

# Facts on Open Burning Under Missouri Regulations

Air Pollution Control Program fact sheet 02/2014

Division of Environmental Quality Director: Ed Galbraith PUB02047

Open burning is the burning of any materials in which air contaminants are emitted directly into the air without first passing through a stack or chimney. This fact sheet summarizes allowable and prohibited open burning under Missouri regulations. It does not include open burning restrictions that city or county governments may impose in addition to Missouri's state regulations. Prior to conducting any open burning, businesses and citizens should contact the city or county of jurisdiction for any local restrictions.

The open burning of certain trade wastes and tires is prohibited because the toxic emissions that can be released are harmful to human health. Smoke from fires also typically produces large amounts of small particulate matter that can be inhaled, causing respiratory problems. The burning of common household trash, including paper products and food wastes, can also have severe consequences. Studies have indicated the open burning of an individual household's trash could release pollutants in higher levels than the burning of the trash of thousands of homes by a municipal waste incinerator because the lower combustion temperatures prevent complete incineration. These pollutants can include dioxins, volatile organic compounds, acetaldehyde, formaldehyde, hydrogen chloride and naphthalene. Open burning exposes individuals to toxic emissions that may irritate the eyes, skin and upper respiratory tract. The central nervous system can also be affected causing headaches, dizziness and fatigue.

Because of these potential dangers, the Missouri Department of Natural Resources strongly discourages open burning of any material prior to investigating alternatives. Some rural areas can participate in a "green box" service, which provides a trash collection point near a centrally located county road for local residents to use. Green boxes are usually picked up or emptied once a week. Other options include waste disposal services, waste diversion, recycling and composting. Contact your local Solid Waste Management District for assistance in implementing these safer alternatives to open burning.

**Prohibited Open Burning Under State Regulation**

Any waste generated by a business, trade, industry, salvage or demolition operation cannot be burned without a permit issued by the Department of Natural Resources or its delegated local agency. Permits will only be considered for untreated wood wastes. Wastes that may not be burned include but are not limited to tires, rubber products, hazardous materials, Styrofoam™, plastics, petroleum-based products, demolition waste, treated wood and any asbestos-containing material.

**Allowable Open Burning Under State Regulations**

**Note:** Local governments may have stricter laws and policies

**Open Burning of Household Refuse**

**General Provisions**: Missouri allows open burning of household refuse from four dwelling units or less provided it originates and is burned on the same premises. This exemption does not apply to mobile home parks or apartment complexes. Residential waste is solid waste produced by routine household activities, such as paper waste and garbage from daily activities. This does not include home remodeling wastes, wastes from home businesses, durable goods such as old appliances, carpets or furniture, tires or other non-routine household waste. Materials such as tires or used oil may not be used to start the fires or be burned in the fires.

**Kansas City and St. Joseph metropolitan areas:** Open burning is allowed provided it occurs within an area zoned for agricultural purposes and outside the portion of the metropolitan areas surrounding the corporate

limits of Kansas City and St. Joseph and their bordering municipalities.
**Outstate area:** No special day, time or location restrictions.
**Springfield-Greene County area:** Open burning is allowed provided that burning takes place outside the corporate limits of Springfield and only within areas zoned A-1, Agricultural District.
**St. Louis metropolitan area**: Open burning of household refuse is prohibited in the St. Louis metropolitan area.

**Open Burning of Yard Wastes**

**General Provisions**: Missouri allows open burning of yard wastes from sites provided it originates and is burned on the same premises. Materials such as tires or used oil may not be used to start the fires or be burned in the fires. Yard waste includes trees, tree leaves, brush or other vegetation.
**Kansas City metropolitan area**: Open burning of trees, tree leaves, brush or any other type of vegetation requires an open burning permit.
**St. Joseph metropolitan area:** Open burning of residential yard wastes is allowed only during a three-week period in spring and during a three-week period in fall between 10 a.m. and 3:30 p.m. The two, three-week periods are to be determined by the city along with state agencies and the state fire marshal.
**Outstate area**: No special day, time or location restrictions.
**Springfield-Greene County area:** The City of Springfield requires an open burning permit for the open burning of trees, brush or any other type of vegetation. The City of Springfield prohibits the open burning of tree leaves.
**St. Louis metropolitan area:** Open burning of trees, tree leaves or brush is allowed only in areas outside of incorporated municipalities from 10 a.m. through 4 p.m., from Sept. 16 and April 14 of each calendar year. These brush piles are limited to a base of 16 square feet.

**Open Burning for Fire Training Purposes**

Missouri allows fires set for the purpose of training fire fighters provided they are conducted in accordance with National Fire Protection Association Standards 600 and 1403. All fire training exercises involving donated or acquired structures must be conducted in compliance with 40 CFR Part 61 Subpart M, The National Emission Standard for Asbestos. The use of donated or acquired structures for training is discussed in Publication 2029. As noted in Publication 2029, there is a ten working day, minimum, notification period to the Air Pollution Control Program for these activities and all petroleum based products and asbestos containing materials must be removed from any structure that is to be impacted as part of a training exercise. In all cases, timely notification should be provided to the appropriate regional office or delegated local agency.

**Open Burning in Agricultural, Natural Resource or Land Management Operations**

Missouri allows agricultural burning throughout the state. However, several exceptions apply. Materials such as tires or used oil may not be used to start the fires or be burned in the fires. Any burning that creates a health hazard, nuisance or produces smoke that impairs visibility for those operating motor vehicles or airplanes is prohibited. Contact the St. Louis Regional Office before burning in the St. Louis metropolitan area from April 15 to Sept. 15. Botanical nursery operations or greenhouses are not considered agricultural operations.

**Open Burning in Land Clearing Operations**

Open burning of tree trunks, tree limbs and vegetation from land clearing operations is allowed without an air curtain destructor or permit in the outstate area if the burning takes place outside the city limits of any incorporated area or municipality and at least 200 yards from the nearest inhabited dwelling. Materials such as tires or used oil may not be used to start the fires or be burned in the fires. Permits containing special conditions may be issued by regional offices or local agencies for sites unable to comply with the requirements above. See the Required Open Burning Permits section below for exceptions in the Springfield-Greene County area, and Kansas City and St. Louis Metropolitan areas.

**Open Burning at Wood Processing Facilities**

Open burning of untreated wood waste from wood processing facilities is allowed if production is less than 8,000 board-feet per day and the facility was in existence as of March 25, 1976, but has not relocated to a new site. The burning also must be done at least 200 yards from the nearest occupied structure.

Open burning of untreated wood waste from wood processing facilities is allowed if production is less than 8,000 board-feet per day and the facility has relocated or from new wood processing facilities not in existence as of Sept. 18, 1970, and the facility and the burning are at least one mile outside city limits. The burning also must be done at least 200 yards from the nearest occupied structure.

**Open Burning for Recreational Purposes**

Campfires and other fires used solely for recreational purposes, ceremonial occasions or for outdoor noncommercial preparation of food are allowed in Missouri. Fires shall include only vegetative woody materials or untreated wood products.

**Required Open Burning Permits**

The open burning of certain trade wastes, primarily untreated wood wastes such as pallets or crates, throughout the state, and vegetation from land clearing operations in the Springfield-Greene County area and the Kansas City and St. Louis Metropolitan areas, may be permitted when it can be shown that open burning is the only feasible method of disposal or that disposal is in the public interest. In a nonattainment area, a permit may be denied, revoked, or suspended when conditions exist where burning would be considered detrimental to air quality standards. The open burning permit requires the facility, in most cases, to use an air curtain destructor.

Commercial and municipal utility tree trimming operations must submit a request to the appropriate regional office for an annually renewable open burning permit. The request must describe the general size, condition and age of the tree trunks and tree limbs to be open burned. Air curtain destructors are generally required at dedicated sites where burning occurs.

Commercial and municipal utility tree trimming operations must submit an application for an open burning permit to the appropriate regional office or local agency.

The information provided in this fact sheet should not be construed to permit open burning that causes or constitutes a public health hazard, nuisance or a hazard to vehicular or air traffic or violates any other rule or statute.

**Definitions**

**St. Louis metropolitan area:** The geographical area comprising St. Louis, St. Charles, Jefferson and Franklin counties and the city of St. Louis. These counties are also currently a non-attainment area for ground-level ozone.

**Springfield-Greene County area:** The geographical area contained within Greene County.

**Kansas City metropolitan area:** The geographical area comprising Jackson, Cass, Clay, Platte, Ray and Buchanan counties.

**Outstate area:** The geographical area comprising those counties not contained in the St. Louis metropolitan area, Springfield-Greene County area or the Kansas City metropolitan area.

**Air Curtain Destructor:** An air pollution control device designed to increase burning efficiency, reducing air contaminant emissions during open burning.

**Open Burning Permit:** A permit that must be applied for and then granted in order to open burn or open burn with restrictions. Permit applications must be sent to the Regional Office or local agency that has jurisdiction over your area. Applications are available at www.dnr.mo.gov/forms or any regional or local agency office.

**Untreated Wood:** Lumber and other wooden materials that have not been chemically treated for resistance to moisture, fire, fungi, insects and other pests or has not otherwise been treated or manufactured with chemicals, or that does not contain adhesives or resins. Untreated wood does not include plywood, particle board, chipboard or wood with other than minimal amounts of paint, coating or finish.

**For More Information**

Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176, Jefferson City, MO 65102-0176
800-361-4827 or 573-751-4817 office
800-361-4827 fax
www.dnr.mo.gov/env/apcp/index.html

Missouri Department of Natural Resources
Solid Waste Management Program
P.O. Box 176, Jefferson City, MO 65102-0176
800-361-4827 or 573-751-5401 office
573-526-3902 fax
www.dnr.mo.gov/env/swmp/index.html

Kansas City Air Quality Program
Air Quality Section
200 Troost Ave., Suite 3200
Kansas City, MO 64108
816-513-6314
816-513-6173 fax

St. Louis County Department of Health
Air Pollution Control Section
6121 North Hanley Road
St. Louis, MO 63134
314-615-8924
www.stlouisco.com/HealthandWellness/ EnvironmentalServices/AirPollutionControlProgram
Email: airpollution.doh@stlouisco.com

Springfield Air Quality Control
Department of Environmental Services
P.O. Box 8368
Springfield, MO 65801-8368
417-864-1412

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**Nothing in this document may be used to implement any enforcement action or levy any penalty unless promulgated by rule under chapter 536 or authorized by statute.**

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**For more information**
Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102-0176
573-751-4817 or 800-361-4827
http://dnr.mo.gov/env/apcp/

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Missouri Department of Natural Resources

# DISPOSAL OF DEMOLITION WASTES CONTAMINATED WITH LEAD OR OTHER HEAVY METALS

Hazardous Waste Program fact sheet 04/2014

Division of Environmental Quality Director: Ed Galbraith PUB2002

This fact sheet contains guidance for households, property owners, businesses and contractors who must dispose of the following types of waste:

- **Paint Residue** - Paint chips, paint scrapings and paint-contaminated blast residue from building renovations or demolition projects.
- **Demolition Debris** - Masonry, metal and boards painted with lead-based (or other coatings containing metal-based) paint.
- **Scrap Metal** - Metal objects containing lead or other metal-containing coatings.

This fact sheet is not intended for guidance on the management of surface coatings removed from bridges, water towers or other similar outdoor structures.

**Why are these wastes a concern?**

Studies conducted by the U.S. Agency for Toxic Substances and Disease Registry, and by independent researchers, show the health effects of lead exposure are greater than previously thought. Children are especially vulnerable to the effects of lead poisoning. Because lead and other toxic heavy metals may be contained in the wastes noted above, they require careful management and disposal.

For many years, lead-based paint was used in residences and businesses for its stable coating properties. Although lead-based paint was virtually banned by the Consumer Product Safety Commission in 1978 for residential application, it is often encountered when buildings are renovated or demolished. Also, lead-based paint is still manufactured and sold for corrosion/rust inhibition on steel structures and for other industrial purposes.

In older buildings, lead was also used for roofs, cornices, tank linings and electrical conduits. In plumbing, soft solder, an alloy of lead and tin, was used for soldering tinplate and copper pipe joints.

**How may I dispose of these wastes?**

In Missouri, the requirements for waste disposal depend on the kind of waste you need to dispose of, and how you are regulated by the law. In all cases, wastes must be managed and disposed of so as not to adversely affect the health of humans, pose a threat to the environment, or create a public nuisance.

**Construction and Demolition Wastes from Households**

All of these management options apply, whether or not a contractor is doing the work for you.

- **Paint Residue** - Paint residue may be placed in the household trash. Before disposal wrap it tightly in a plastic bag or other container. It will be picked up by your trash hauler and taken to a sanitary landfill for disposal.
- **Demolition Debris** - May be placed in your household trash. It may be picked up by your trash hauler and taken to a sanitary or demolition landfill for disposal.
- **Scrap Metal** - Scrap metal should be taken to a salvage yard operator for recycling. If this is not possible, the metal may be placed in your household trash and picked up by your waste hauler for disposal at a sanitary or demolition landfill.

**Construction and Demolition Wastes from Structures Other than Households**

- **Paint Residue** - Paint residue must be laboratory tested prior to disposal. The appropriate test method is the Toxicity Characteristic Leaching Procedure, or the TCLP, EPA Method 1311, which is described in Appendix 11 of the Code of Federal Regulations, Title 40, Part 261 (40 CFR Part 261). The test must

include the eight metals noted in 40 CFR Part 261.24 (arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver). Environmental laboratories capable of conducting a TCLP may be found in the yellow pages of your telephone directory.

If one or more analytical limits meets or exceeds the regulatory limit, the waste is hazardous. Hazardous wastes must be managed, transported and disposed of according to the Missouri Hazardous Waste Management Law and Regulations. This may require that the paint residue be sent to an authorized disposal facility that specializes in hazardous waste. In some cases, a lead smelter may accept lead-based paints for use in their lead production processes.

If laboratory analysis shows that the paint residue is non-hazardous, it must be disposed of at a sanitary landfill as special waste. Paint residue may not be disposed of in a demolition landfill. Procedures for managing special wastes are included in the guidance, titled Special Waste fact sheet available on the department's Web site at http://www.dnr.mo.gov/pubs/pub2050.htm or by calling the department's Solid Waste Management Program at 800-361-4827 or 573-751-5401.

- **Demolition Debris** - Demolition debris need not be tested prior to disposal, so long as they are not chipped, shredded, milled, ground, mulched or similarly processed that would increase their leachability prior to disposal. Unprocessed wastes may be disposed of in either a sanitary or a demolition landfill in Missouri. Processed demolition waste should be evaluated as described for paint residue.
- **Scrap Metal** - Scrap metal should be sent to a salvage yard for recycling. If this is not possible, the metal may be disposed of at a sanitary or demolition landfill.

**About landfill disposal**

Please note that a trash hauler or landfill operator has the right to refuse to accept any waste.

A landfill may also request that you submit a special waste disposal request (forms available from the Solid Waste Management Program). For this reason, we recommend that you contact the landfill operator for permission prior to shipment. Refusal by one landfill operator does not keep the generator from seeking another landfill operator's permission for disposal.

**About recycling scrap metal**

The recommended disposal method for scrap metal is recycling rather than disposal. Scrap metal may be sold or given to a salvage yard dealer. Lead scrap metal may also be sent directly to a lead smelter for re-melting and production of new lead and lead products.

**Additional considerations and sources**

Hazardous waste requirements are found in the Missouri Hazardous Waste Management Laws, Sections 260.345 through 260.575 of the Revised Statutes of Missouri. The Missouri Hazardous
Waste Regulations are found in Title 10, Division 25 of the Code of State Regulations. Most of the federal environmental requirements in Title 40 of the Code of Federal Regulations (CFR) are adopted by reference into the Missouri regulations.

Solid waste requirements are found in the Solid Waste Management Law in Sections 260.200 through 260.345 RSMo, and the regulations in Title 10, Division 80 in the CSR.

Copies of the Revised Statutes of Missouri are available through the Revised of Statutes at 573-526-1288, or are available online at http://www.moga.mo.gov/. Copies of the Missouri Code of
State Regulations are available through the Missouri Secretary of State at 573-751-4015, or are available online at https://www.sos.mo.gov/adrules/csr/csr.asp.

Federal regulations may be viewed at federal depository libraries or may be purchased from a U.S. Government Bookstore, the U.S. Government Printing Office, or from a commercial information service such as the Bureau of National Affairs. Federal Regulations are also available online at http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR.

**Other Guidance**

The Missouri Department of Health and Senior Services' Office of Lead Licensing and Accreditation may be contacted for information regarding training, licensure and work practice standards for lead abatement activities. Disposal is an abatement activity. See Missouri Revised Statutes 701.300 701.338.

Please note that many municipalities have additional requirements in addition to those discussed above.

**For More Information**

Missouri Department of Natural Resources
Hazardous Waste Program
P.O. Box 176, Jefferson City, MO 65102-0176
800-361-4827 or 573-751-7560
573-751-7869 fax
http://www.dnr.mo.gov/env/hwp/index.html
Missouri Department of Natural Resources
Solid Waste Management Program
P.O. Box 176, Jefferson City, MO 65102-0176
800-361-4827 or 573-751-5401
573-526-3902 fax
http://www.dnr.mo.gov/env/swmp/index.html
Missouri Department of Health
Office of Lead Licensing and Accreditation
888-837-0927 or 573-526-5873
http://health.mo.gov/safety/leadlicensing/

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**Nothing in this document may be used to implement any enforcement action or levy any penalty unless promulgated by rule under chapter 536 or authorized by statute.**

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**For more information**

Missouri Department of Natural Resources
Hazardous Waste Program
P.O. Box 176
Jefferson City, MO 65102-0176
800-361-4827 or 573-751-3176 office
573-751-7869 fax
http://dnr.mo.gov/env/hwp

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Missouri Department of Natural Resources

# Asbestos Requirements for Demolition and Renovation Projects

Air Pollution Control Program fact sheet 05/2017

Division of Environmental Quality Director: Ed Galbraith PUB02157

**Disclaimer: The statements in this document are intended solely as guidance. This document is not intended, nor can it be relied on, to create any rights enforceable by any party in litigation. This guidance may be revised without public notice to reflect changes in law, regulation or policy.**

**Introduction**

This document is one in a series of fact sheets about the Missouri Department of Natural Resources' asbestos requirements. This particular document contains information regarding how to determine if your demolition or renovation project is regulated by the department's air pollution control requirements. It also will help explain the basic requirements for asbestos inspection and asbestos abatement as well as for notification of regulated demolition and renovation projects. In addition, it discusses requirements for disposing of asbestos waste.

**Determining if Your Project Will Involve Regulated Structures**

The first step in determining if your demolition or renovation project is regulated is to determine the type of structure that will be affected. The department regulates demolition and renovation projects involving institutional, commercial, public, industrial, or residential structures, installations or buildings. An exception to this regulation is a single residential structure that contains four or fewer dwelling units. Projects that involve two or more residential structures are not exempt. Two or more residential structures being demolished as part of an urban or rural renewal or an unsafe building abatement program are not exempt, regardless of their proximity to each other. Projects that involve demolition of two or more mobile homes are not exempt. If the structure has been used for any purpose other than residential, such as being converted from residential to commercial use or converted from commercial to residential use, it is not exempt. Any residential structure used in fire training exercises is not exempt.

Should a regulated structure be demolished by a catastrophic event, such as a tornado or accidental fire, the department's Air Pollution Control Program should be contacted for guidance.

**Inspection Requirements**

Prior to demolition or renovation activities, regulated structures or those areas that will be subject to demolition or renovation activities must be thoroughly inspected by a Missouri certified asbestos inspector to determine if any asbestos-containing materials are present. The inspector should identify all potential asbestos-containing (suspect) materials that may be disturbed by the demolition or renovation activity. Samples of the suspect materials should be collected and submitted for laboratory analysis to determine if they contain asbestos. The inspector should generate a report of his or her findings from the inspection. The report should identify all suspect materials present, and indicate the amount, location, category and condition of the suspect materials. The report should also include a copy of the analytical results and chain of custody for all samples collected.

If a regulated structure is structurally unsound, it may not be possible to thoroughly inspect the entire structure. An inspection should be performed in all areas of the structure where it is safe to do so. The final inspection report should clearly indicate what areas, if any, were not inspected. Areas of the building that were not inspected will require special handling during demolition.

A list of Missouri certified asbestos inspectors is available on the department's website at www.dnr.mo.gov/env/apcp/asbestos.htm.

**Categories of Asbestos-Containing Materials**

There are three categories of asbestos-containing materials that may be identified by an inspector.

- **Friable asbestos-containing material** - Any material containing more than one percent asbestos that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure. Examples include sprayed or troweled-on materials such as acoustical ceiling spray or boiler insulation, paper pipe insulation and drop-in ceiling tile.
  • **Category I nonfriable asbestos-containing material** - Asbestos-containing packings, gaskets, *resilient floor covering and asphalt roofing products containing more than one percent asbestos. *(Any asbestos-containing vapor barrier on resilient floor coverings such as sheet vinyl or tile is considered friable asbestos).
  • **Category II nonfriable asbestos-containing material** - Any nonfriable material, other than Category I materials, containing more than one percent asbestos. Examples of Category II materials include asbestos cement wall or roof shingles and cement pipe.

Depending on the type or category of the asbestos-containing materials identified from the inspection and the forces that will eventually act upon them during demolition and renovation, the materials may or may not be regulated by the department's asbestos requirements. To determine the applicability of the department's asbestos requirements, you must determine if the asbestos from your project will meet the definition of regulated asbestos-containing material, or RACM.

RACM includes friable asbestos-containing materials; Category I nonfriable materials that have become or will become friable, or have been subject to sanding, grinding, cutting, burning, or abrading; or Category II nonfriable materials that have a high probability of becoming, or have become, crumbled, pulverized or reduced to powder by the work practices used during the course of demolition or renovation.

**Requirements for Abatement of Regulated Asbestos-Containing Material**

If the asbestos inspection determines 160 square feet, 260 linear feet, 35 cubic feet (threshold quantities), or more of RACM will be impacted by demolition or renovation activities, all of the RACM must be removed by a Missouri registered asbestos abatement contractor.

Abatement contractors are trained in the proper procedures for safely removing and disposing of asbestos-containing material and may only employ workers trained and subsequently, certified by the department to participate on a regulated project. A list of Missouri registered asbestos abatement contractors is available on the department's website at www.dnr.mo.gov/env/apcp/asbestos.htm.

If a building is structurally unsound and unsafe to enter, there may be provisions that would allow the building to be demolished without being inspected or having the RACM removed. In this event contact the Air Pollution Control Program.

**Requirements for Abatement of Nonfriable Asbestos-Containing Materials**

Most nonfriable materials are not considered RACM unless they are in poor condition or are rendered into RACM by the work practices during demolition or renovation. Category I nonfriable materials can generally be left in place during demolition activities provided the method of demolition will not make the material into RACM. However, for certain types of Category I materials, such as floor tile and linoleum, the department generally recommends removal prior to demolition because these materials could easily be rendered into RACM during the demolition process. Also, leaving these materials in place may increase the amount of material considered as asbestos waste and the cost of disposal. If Category I ACM is left in place, work practices must be implemented to ensure the material is not made into RACM during removal or demolition. Any activity that will result in the material being subject to sanding, grinding, cutting, abrading, or burning may cause the material to become subject to regulation, depending on the quantity involved.

If threshold quantities of Category II materials will be impacted, then they must be removed prior to demolition or renovation activities. This removal must be performed in a manner that does not render the material into RACM. If the material is crumbled, pulverized or reduced to powder during the demolition or removal process, the material may become subject to regulation depending on the quantity involved.

The Occupational Safety and Health Administration, or OSHA, has specific work practice standards for friable and nonfriable Category I and Category II asbestos-containing materials. While the removal of nonfriable materials may not be regulated by the department, the material can still pose a safety risk if handled

improperly. For any project involving asbestos, whether regulated by the department or not, the use of trained asbestos professionals that are familiar with OSHA standards should be considered for any work involving asbestos.

**Notification Requirements**

There are two types of notifications required by the department in regard to demolition and renovation projects, asbestos abatement project notification and demolition project notification. Asbestos abatement project notifications must be submitted to the department at least 10 working days prior to the start of a regulated asbestos abatement project. A copy of the asbestos inspection report and laboratory analytical results must accompany the notification. The notification period allows the department time to inspect the project and ensure it is being performed in compliance with all of the applicable requirements. A $200 review fee is required for each notification of an asbestos abatement project.

Alternate notification provisions may apply in emergency situations. In this event contact the Air Pollution Control Program.

The second type of notification is demolition notification. Demolition notifications must be provided to the department at least 10 working days prior to the demolition of any regulated structure. A $100 review fee is required for each demolition notification.

This notice is required even if there is no asbestos identified in the structure being demolished. This notification period provides the department the opportunity to inspect the structure prior to demolition to ensure all asbestos issues have been properly addressed. A copy of the asbestos inspection report and laboratory analytical results must accompany this notification. In the event a structure is in danger of imminent collapse and has been ordered demolished by a state or local government agency, the department can waive the 10 working day notification period. In this case, notice should be provided as early as possible before, but no later than the following working day. A copy of the government order must also be included with the notification.

It is the obligation of the owner and any contractors involved to ensure these notifications are provided to the department. Failure to submit the notification is a violation of the department's requirements. The department will issue a notice of receipt letter for all asbestos abatement and demolition project notifications. The notice of receipt letter will list any deficiencies in the notification of abatement or demolition.

Copies of the required notification forms are available on the department's website at www.dnr.mo.gov/env/apcp/asbestos.htm.

**Asbestos Waste Disposal Requirements**

Asbestos waste from regulated projects involving threshold quantities of RACM must be handled in strict accordance with the department's requirements for asbestos waste disposal. Wastes from these projects must be transferred to an approved sanitary landfill or transfer station by registered asbestos abatement contractors, who are trained in the provisions for proper waste disposal.

Non-friable asbestos-containing materials that are not made into RACM are not regulated by the department's asbestos requirements. However, this material is considered a solid waste and must be properly disposed of at an approved landfill or transfer facility in accordance with the Solid Waste Management Law. You should contact the facility where you plan to dispose of your asbestos waste for information on how the material should be packaged and delivered to their facility for disposal.

**Asbestos Contact Information**

For more information on the department's asbestos requirements, you may contact the department's Air Pollution Control Program or one of the department's other offices:

**Local Agencies**

In Missouri, there are two local agencies that have an agreement with the department to enforce Missouri's asbestos requirements as well as local ordinances. These local agencies are:

| Jurisdiction | Agency | Telephone |
|---|---|---|
| Kansas City | Kansas City Health Department<br>Air Quality Program | 816-513-6314 |

| | | |
|---|---|---|
| St. Louis County | St. Louis County Health Department | 314-615-8924 |

Two additional local agencies do not enforce Missouri's asbestos requirements but may have local ordinances concerning asbestos which they enforce:

| Jurisdiction | Agency | Telephone |
|---|---|---|
| St. Louis (city) | St. Louis Division of Air Pollution Control Air Quality Program | 314-613-7300 |
| Springfield | Springfield-Greene County Health Department of Environmental Services | 417-864-1412 |

Prior to performing a project in one of these jurisdictions, you should contact the appropriate agency to determine if any additional requirements apply.

Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102
573-751-4817
573-751-2706 fax
http://www.dnr.mo.gov/env/apcp/

**Other Department Offices**

Regional Offices

Kansas City Regional Office
500 NE Colbern Road
Lee's Summit, MO 64086-4710
816-251-0700
816-622-7044 fax

Northeast Regional Office
1709 Prospect Dr.
Macon, MO 63552-2602
660-385-8000
660-385-8090 fax

St. Louis Regional Office
7545 S. Lindbergh, Suite 210
St. Louis, MO 63125
314-416-2960
314-416-2970 fax

Southeast Regional Office
2155 N. Westwood Blvd.
Poplar Bluff, MO 63901
573-840-9750
573-840-9754 fax

Southwest Regional Office
2040 W. Woodland
Springfield, MO 65807-5912

417-891-4300
417-891-4399 fax

**Additional Asbestos Related Guidance Documents**
For more specific information about the department's requirements in regard to asbestos, reference the additional guidance documents listed below or contact the department or appropriate local agency at the contact information found in this fact sheet.

These documents are available for free download from the department's website at www.dnr.mo.gov/pubs/index.html.

- Asbestos: What is it and why is it a concern?, Fact Sheet--PUB2077
- How to Handle Asbestos-Containing Debris, Fact Sheet--PUB2121
- Management of Nonfriable Asbestos Containing Materials, Fact Sheet--PUB2156
- Requirements for Fire Training Exercises Involving Structures, Fact Sheet--PUB2029

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**For more information**
Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102-0176
573-751-4817 or 800-361-4827
http://dnr.mo.gov/env/apcp/

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Missouri Department of Natural Resources

# Management of Nonfriable Asbestos-containing Materials

Air Pollution Control Program fact sheet 02/2014

Division of Environmental Quality Director: Ed Galbraith PUB02156

**Disclaimer: The statements in this document are intended solely as guidance. This document is not intended, nor can it be relied on, to create any rights enforceable by any party in litigation. This guidance may be revised without public notice to reflect changes in law, regulation or policy.**

**Introduction**

This document is one in a series of fact sheets designed to assist you in becoming aware of the department's asbestos requirements. This particular document contains information regarding how to properly remove and dispose of nonfriable asbestos-containing materials.

**Categories of Asbestos-containing Materials**

There are three categories of asbestos-containing materials (ACM). These materials should be identified by a certified inspector prior to any renovation or demolition activities. They are as follows:

- **Friable asbestos-containing material**
  Any material containing more than one percent asbestos that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure. Examples of friable materials include sprayed or troweled materials such as acoustical ceiling spray or boiler insulation, paper pipe insulation and drop-in ceiling tile.
- **Category I nonfriable asbestos-containing material**
  Asbestos-containing packings, gaskets, *resilient floor covering and asphalt roofing products containing more than one percent asbestos.
  *(Any vapor barrier on resilient floor coverings is considered friable asbestos.)
- **Category II nonfriable asbestos-containing material**
  Any nonfriable material, other than category I materials, that contain more than one percent asbestos. Examples of category II materials include asbestos cement wall or roof shingles and cement pipe products containing more than one percent asbestos.

  Depending on the type or category of asbestos-containing materials present on a project and the work practices used during demolition or renovation to remove them, the materials may or may not be regulated by the department's asbestos requirements. To determine the applicability of the department's asbestos requirements, one must determine if the asbestos from your project will meet the definition of Regulated Asbestos-containing Material, or RACM.

Regulated Asbestos-containing Material includes friable asbestos-containing materials; category I nonfriable materials that have become or will become friable or have been subject to sanding, grinding, cutting, abrading or burning; or category II nonfriable materials that have a high probability of becoming or that have become crumbled, pulverized or reduced to powder due to the work practices used during the course of demolition or renovation.

**Removal of Category I and II Nonfriable Materials**

Most nonfriable materials are not regulated by the department, unless they are in poor condition or are rendered friable by improper work practices during demolition or renovation. Category I nonfriable materials can be left in place during demolition, provided the work practices used will not make the material friable. However, for certain types of category I materials, such as floor tile and linoleum, the department generally recommends their removal prior to demolition as these materials could easily be rendered friable during the

demolition. Also, leaving these materials in place may increase the quantity of asbestos waste resulting in increased disposal costs. It should be noted that materials that contain or are coated with asbestos can not be used as clean fill materials. If Category I ACM is left in place, work practices must be implemented to ensure the material is not made friable during removal or demolition. Any activity that will result in the material being subject to sanding, grinding, cutting, abrading, or burning may cause the material to become subject to regulation, depending on the quantity of ACM involved.

If a threshold or regulated quantity of RACM, including Category II materials, will be impacted, they must be removed prior to demolition or renovation activities. Category II materials must be removed in a manner that does not render the material friable. Improper work practices or materials in poor condition are considered RACM. If the material is crumbled, pulverized or reduced to powder during demolition or removal activities, the material may become subject to regulation depending on the quantity of RACM involved.

Any project involving a threshold amount of RACM (160 square feet, 260 linear feet, or 35 cubic feet) must be performed by a registered asbestos abatement contractor. This includes situations where the material was originally nonfriable but is now in poor condition and situations where nonfriable materials will be made friable during demolition, renovation or removal.

**Examples of Nonfriable Materials and Acceptable Removal Techniques**

- Category I Asphalt Roofing Material is not regulated by the department as long as the material is in good condition and it is not made friable during removal or demolition. This material can generally be left in place during demolition activities, but still must be disposed of at a permitted landfill or transfer station. You should contact your disposal facility to determine how they will require this material to be packaged and delivered. Roofing material may be sliced by a manual cutter or knife, however, the use of mechanical devices such as a rotating blade roof cutter or other equipment will render roofing products friable. The U.S.
  Environmental Protection Agency has determined that use of this kind of equipment on more than 5,580 square feet of roofing will make the project subject to regulation. If this is the case, then the project must be performed by a registered asbestos abatement contractor in accordance with all applicable asbestos work practice requirements.
- Category I Vinyl or Asphaltic Floor Tile is not regulated by the department as long as the material is in good condition and is not made friable during demolition or renovation activities. Tile can generally remain in place during demolition, but care must be taken to ensure the material is left largely intact. Since it is difficult to control the degree of breakage that may occur, the department generally recommends that floor tile be removed prior to demolition. Tile may be removed from a structure as an unregulated project if manual methods are used and the tile is removed in largely intact pieces. One acceptable nonfriable removal method
  would be to flood the tiled area with water to loosen the tile and then pop the material from the subfloor with a spud hoe. Breakage of the tile should be minimized. Other methods include the use of mastic reducers or an infrared heating device to loosen the tile from the glue or mastic before removing the tile with manual tools as discussed above. In both cases, the tile should be adequately wetted with amended water throughout the removal process and properly packaged while wet. This will help to reduce any potential asbestos emissions from the material.

  If the tile is not removed in largely intact pieces, even if removed by the manual methods discussed above, it will be considered RACM. In addition, the use of any mechanical devices or bead blasters for removing tile will subject the material to regulation as RACM. The removal of tile as RACM must be performed by a registered asbestos abatement contractor in accordance with all applicable asbestos work practice requirements.
- Category I Nonfriable Mastic is not regulated by the department as long as the material is in good condition and is not made friable during demolition or renovation activities. This material must not be dry scraped or sanded. The department recommends use of a mastic-reducing solvent or material having a flashpoint above 140 degrees Fahrenheit to loosen the material from the subfloor. Then use a

manual tool such as a spud hoe to remove the material. Any activity that would sand, grind, cut or abrade this material during removal would subject it to regulation as RACM. In this event, the project would be required to be performed by a registered asbestos abatement contractor in accordance with all applicable asbestos work practice requirements.

- Category I Vinyl Sheet Flooring, or Linoleum, is not regulated by the department as long as the material is in good condition and is not made friable during demolition or renovation activities. Sheet vinyl on wooden subflooring can generally remain in place during demolition, but care must be taken to not disturb the vapor barrier as this material is considered inherently friable. Since most demolition activity will result in the backing being disturbed to some extent, the department would recommend that this material be removed prior to demolition. To remove sheet vinyl as a nonregulated project, the material must be removed adhered to the subfloor, so as to not expose the backing of the material. Exposure of the backing of the sheet vinyl, such as would occur if the material is stripped from the subfloor, will subject the material to regulation if more than a threshold quantity of RACM is disturbed. Removal in this manner must be done by a registered abatement contractor in accordance with all applicable asbestos work practice requirements.
- Category II Caulking is not regulated by the department as long as the material is in good condition and is not made friable during demolition or renovation activities. This material can be left in place during demolition provided it is not rendered friable during the demolition or renovation project. When removing caulking, in the case of window replacement, you may elect to remove the whole window unit. The material should be kept wet and the entire window wrapped for disposal. If the windows are not to be removed, then the caulking should be wetted and removed carefully, without sanding, cutting, grinding or abrading the material. The material should be containerized for proper disposal at an approved disposal facility. The landfill or transfer station should be contacted for any specific packaging or labeling requirements.
  If the material has become brittle and crumbles upon removal, the material should be considered RACM. In this case, the removal must be done by a registered asbestos abatement contractor in accordance with all applicable asbestos work practice requirements, if threshold quantities of the material are present.
- Category II Asbestos Cement Siding and Cementitious Wall Board is not regulated by the department as long as the material is in good condition and is not made friable during demolition or renovation activities. This material must be removed prior to demolition or renovation activities that will cause significant breakage, crumbling, or pulverizing of the material. When removing this type of material, the material should be removed manually by either driving the nails through the material or snipping off the nail or screw heads. The panels should be removed largely intact and should be lowered carefully to the ground. The material should be kept wet with amended water to further reduce the possibility of emissions. The material should be wrapped or packaged in accordance with the requirements of the disposal facility that will be used.
  Beating, prying and dropping of the panels from an elevated position will likely cause the material to become crumbled and subsequently regulated as RACM. If more than a threshold amount of the material cannot be removed without breaking or crumbling the material, then the project must be performed by a registered asbestos abatement contractor in accordance with all applicable asbestos work practice requirements.
- Category II Asbestos Cement Roofing shingles are not regulated by the department as long as the material is in good condition and is not made friable during demolition or renovation activities. This material must be removed prior to demolition or renovation activities that will result in significant breakage, crumbling or pulverizing of the material. The removal of this material should follow the same protocols as stated above for asbestos cement siding. However, using amended water on the material may not be appropriate if it will compromise the safety of workers removing the material.

**Disposal of Nonfriable Materials**

Nonfriable asbestos-containing materials are not subject to the department's asbestos waste disposal

requirements. However, this material is still considered a solid waste and must be properly disposed of at an approved landfill or transfer facility in accordance with the Solid Waste Management Law. You should contact the facility where you plan to dispose of your asbestos waste prior to removal to determine any specific procedures for waste delivery such as packaging, wetting, and labeling.

Nonfriable materials that become RACM must be handled in strict accordance with the requirements for asbestos waste disposal. Projects involving RACM must be performed by registered asbestos abatement contractors who are trained in the provisions for proper handling, packaging and waste disposal. These requirements include packaging the material in leak tight containers or wrapping and properly marking and labeling the bags with an asbestos warning label and information identifying the generator of the waste. The material must be taken to an approved disposal facility, such as a sanitary landfill, that accepts asbestos-containing waste.

**Notification Requirements**

Provided the nonfriable ACM is in good condition and not made friable during the course of removal or demolition, there is no requirement for notification to be provided to the department prior to removal during renovation projects. However, the department encourages courtesy notifications to be submitted for these projects. Notification is required for all demolition projects involving regulated structures, regardless of asbestos content.

In the event that the nonfriable ACM is in poor condition (friable) or will be removed in a manner that will make it regulated as RACM, then notification must be provided 10 working days prior to the start of the project. This notice should be provided by the asbestos abatement contractor who is to perform the removal.

**Minimizing Exposure**

For individuals working with nonfriable asbestos-containing materials, respiratory protection consisting of high-efficiency particulate air (HEPA) filtered respirators is recommended. Disposable protective clothing is also advised. An amended water solution consisting of approximately one ounce of liquid detergent to one gallon of water should be used before and during removal to keep the material adequately wet to minimize fiber release. Amended water should not be used on roofing projects where fall hazards exist or near electrical sources. Waste materials should be promptly bagged or wrapped for disposal and taken to a permitted solid waste landfill or transfer station.

While the removal of nonfriable materials may not be regulated under the department's asbestos requirements, the material can still pose a safety risk if handled improperly. For this reason, the Occupational Safety and Health Administration, or OSHA, also has requirements governing asbestos removal to ensure adequate protection of the workers performing the removal. For any project involving asbestos, whether regulated by the department or not, the department would recommend the use of trained asbestos professionals that are familiar with the OSHA standards for any asbestos removal work. To learn more about OSHA standards for asbestos removal, you may contact OSHA at one of the numbers listed below.

OSHA in St. Louis (eastern Missouri area) - 800-392-7743

OSHA in Kansas City (western Missouri area) – 816-483-9531

**Asbestos Contact Information**

For more information on the department's asbestos requirements, you may contact the department's Air Pollution Control Program or one of the department's other offices: Local Agencies

In Missouri, there are also two local agencies delegated by the department to enforce the asbestos requirements. These local agencies may also have more stringent local ordinances that they enforce as well. Prior to performing a project in one of the following jurisdictions, you should contact the appropriate local agency to determine if any additional requirements apply.

| Jurisdiction | Agency | Telephone |
|---|---|---|
| Kansas City | Kansas City Health Department | 816-513-6314 |

Air Quality Program

St. Louis County St. Louis County Health Department 314-615-8924

Two additional local agencies do not enforce Missouri's asbestos requirements but may have local ordinances concerning asbestos which they enforce:

| Jurisdiction | Agency | Telephone |
|---|---|---|
| St. Louis (city) | St. Louis Division of Air Pollution Control<br>Air Quality Program | 314-613-7300 |
| Springfield | Springfield-Greene County Health Department of Environmental Services | 417-864-1412 |

Prior to performing a project in one of these jurisdictions, you should contact the appropriate agency to determine if any additional requirements apply.

Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102
573-751-4817
573-751-2706 fax
http://www.dnr.mo.gov/env/apcp/
Other Department Offices
Regional Offices

Kansas City Regional Office
500 NE Colbern Road
Lee's Summit, MO 64086-4710
816-251-0700
816-622-7044 fax

Northeast Regional Office
1709 Prospect Dr.
Macon, MO 63552-2602
660-385-8000
660-385-8090 fax

St. Louis Regional Office
7545 S. Lindbergh, Suite 210
St. Louis, MO 63125
314-416-2960
314-416-2970 fax

Southeast Regional Office
2155 N. Westwood Blvd.
Poplar Bluff, MO 63901
573-840-9750
573-840-9754 fax

Southwest Regional Office
2040 W. Woodland
Springfield, MO 65807-5912

417-891-4300
417-891-4399 fax

Environmental Services Office
Jefferson City, MO
800-361-4827

**Additional Asbestos Related Guidance Documents**
For more specific information about the department's requirements in regard to asbestos, reference the additional guidance documents listed below or contact the department or appropriate local agency at the contact information found in this fact sheet.
These documents are available for free download from the department's website at www.dnr.mo.gov/pubs/index.html.

- Asbestos: Inspection Report Requirements, Fact Sheet--PUB2349
- Asbestos Requirements for Demolition and Renovation Projects, Fact Sheet--PUB2157
- How to Handle Asbestos-Containing Debris, Fact Sheet--PUB2121
- Requirements for Fire Training Exercises Involving Structures, Fact Sheet--PUB2029

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**Nothing in this document may be used to implement any enforcement action or levy any penalty unless promulgated by rule under chapter 536 or authorized by statute.**

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**For more information**
Missouri Department of Natural Resources
Air Pollution Control Program
P.O. Box 176
Jefferson City, MO 65102-0176
573-751-4817 or 800-361-4827
http://dnr.mo.gov/env/apcp/

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# Chapter XI

## CDBG CLOSE-OUT

## Introduction

24 CFR 85.50 addresses the timing of grant close-outs as follows: "Within 90 days after the date of expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant." DED has interpreted the time period to include the requirement of the grant being closed out, with the possible exception of the audit, within 90 days of completion of project activities. Consideration will be given to the timing at the close-out monitoring visit by CDBG staff.

The close-out process encompasses a series of activities to verify that CDBG funds have been properly spent and that the city or county has completed the elements of its program in a timely and acceptable manner. The timeliness and content of information presented at close-out is considered by DED to determine future CDBG applications. It is very important that recipients pay careful attention to close-out procedures as a final step in the CDBG management process. The grantee must retain all records for a period of five years from the date the State executes the Certificate of Completion.

There are five major tasks involved in closing out a program:

1. Resolution of all monitoring findings
2. Completion of close-out public hearing and submission of the hearing minutes and affidavit of publication
3. Submission of close-out report (one original copy)
4. Submission of Certificate of Completion (three originally signed copies)
5. Completion and submission of the final audit

The close-out process should begin when the following criteria have been met or will be met shortly.

1. All costs to be paid with program funds have been paid, including any unsettled third-party claims, with the exception of close-out costs, such as the cost of the final audit and the final 10% administration costs. (See the Financial Management Chapter.)
2. The recipient has fulfilled all of its responsibilities under the Funding Agreement. This includes injection of all local cash and in-kind services, other State and/or Federal funding, all private investment, and job creation/retention (in the case of economic development projects). Delays in completing close-out can result in the denial of future requests for CDBG funding.

### Types of Close-outs

There are two types of close-outs that can occur at project completion.

1. When all conditions of the grant have been met and all five tasks mentioned above are received and approved, the close-out can be finalized. This is the **regular** close-out procedure.
2. When the conditions of the grant have been met and all documentation has been received and approved except for the remaining audit, the grant can be **administratively** closed, **if the grantee is paying for the audit. If CDBG is paying for audit costs, the grant must remain open until audit invoices are paid, and the audit has been received and approved by DED**. Administrative close-out is noted on the Certificate of Completion, and any disallowed costs by the audit shall be remitted to DED. Once the audit is submitted to the Federal Audit Clearinghouse and approved by CDBG, the grant is considered finalized.

### Close-out Report Forms

The close-out report includes the following forms.

1. **State CDBG Close-out Report Cover Sheet:** This form must be signed by the Mayor or Presiding County Commissioner. This form also requests that all written citizen comments/complaints received during the grant, plus the grantee's responses, be attached to the report.

2. **Form 2: Income Data for Program Beneficiaries:** This form is used to report LMI data for all beneficiaries (direct beneficiaries, direct beneficiary applicants, and indirect beneficiaries). **Direct Beneficiaries** are defined as those for which an application or personal income verification must be submitted (housing rehabilitation, new sewer/water hook-ups, or jobs). (See ED/1 below.) **Direct Beneficiary Applicants** are those who applied for housing rehabilitation, sewer/water hookup, or jobs. This includes **all** applicants, both successful and unsuccessful. **Indirect Beneficiaries** are those served by the activity although an application is not required (replacement of sewer/water lines where no new hook-ups occur, streets, clearance, drainage, etc.)

   All beneficiary (both income and racial/ethnic) data is reported by CDBG activity (sewer treatment, bridges, housing rehabilitation, acquisition, etc). Do not report beneficiaries for administration or legal activities. The beneficiaries of engineering design, inspection, and architectural fees are the same as the beneficiaries for the construction activity and do not have to be reported separately.

   The form includes a space for total beneficiaries and total Low-to-Moderate Income (LMI) beneficiaries. Please notice that three additional levels of LMI beneficiary data must also be reported: Low/Mod (80% of county median), Low (50%), and Very Low (30%). These totals are **non-cumulative**: Low/Mod includes all beneficiaries at or below 80% of county median but above 50%; Low includes all those at or below 50% of county median but above 30%; and Very Low includes all those below 30%.

3. **Form 3: Population Group Data for Direct Beneficiaries:** This form is used to report the racial breakdown of direct beneficiaries by ethnic designation (total and Hispanic). (See ED/1 below.)

4. **Form 4: Population Group Data for Direct Beneficiary Applicants:** This form used is to report the racial breakdown of direct beneficiary applicants by ethnic designation (total and Hispanic). (See ED/1 below.)

5. **Form 5: Population Group Data for Indirect Beneficiaries:** This form is used to report the racial breakdown of indirect beneficiaries by ethnic designation (total and Hispanic).

6. **Form 6: Project Accomplishments:** This form lists, by line item on the Funding Approval, the quantitative results of the project. Professional services should not be included.

7. **Form U:** Data Collection for CDBG Performance Measures: This form collects required data for CDBG Performance Reports.

8. **Form ED/1:** This form is required on close-outs for all programs under the economic development category. It replaces Forms 2, 3, 4, and 5 Direct Beneficiaries (and applicants) discussed above.

Any changes in beneficiaries on the close-out report from the applicant should be verifiable through file documentation. CDBG requires that only one copy of the close-out report be submitted.

**Section 3 Summary Report**

The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods. The Section 3 Summary Report is used to track those efforts.

Instructions for completing the Section 3 Summary Report can be found at the bottom of the second page. **Section 3 Summary Report should be submitted for ALL projects--- EVEN IF NO SECTION 3 PERSONS WERE HIRED, OR NO SECTION 3 CONTRACTS WERE AWARDED.** Simply provide a brief explanation as to why in the box in Part III of the form.

## Certificates of Completion

After all program costs have been paid, the grantee shall submit **three originally signed Certificates of Completion**, if applicable. The Certificate should reflect actual expenditures in each line item activity.

Besides final statement of costs, the Certificate provides for computation of any amount to be deobligated and/or returned to DED, actual local contribution compared to application pledged amount (any discrepancy between these two must be explained fully), disposition of program income, and certification by grantee of responsibility for completion.

Grantee should forward to DED a check in the amount of cash on hand remaining at project close-out, if applicable. An amendment must be executed by the grantee for all funds to be deobligated at close-out. This amendment will become part of the close-out process.

## Close-out Monitoring Requirements

At project completion, the CDBG field representative for the area involved will contact the grant recipient to determine a date for the close-out monitoring visit. All monitoring findings must be resolved before the close-out can be further processed.

## Close-out Public Hearing

A public hearing on grant performance is required after a minimum of 80% project completion. A copy of the published notice and minutes of the hearing must be submitted to DED as part of close-out. (See the Citizens Participation Chapter.)

## The Audit

When a recipient accepts funds under the CDBG program, it assumes the responsibility of carrying out the requirement that the CDBG program be audited. **The audit must be performed on an annual basis, in compliance with the Single Audit Act, discussed herein, and forwarded to the Federal Audit Clearinghouse** within nine months of the end of the recipient's fiscal year. This applies for every year the grant is open and to every grant until all funds are audited. CDBG will review audits on the Clearinghouse website; it is not necessary to send a copy of the audit to CDBG unless the audit contains findings regarding the CDBG program. In that case, we will request a copy from the grantee.

Audits are not required if the local entity has expended less than $750,000 in total Federal dollars in its fiscal year ($500,000 for fiscal years ending December 31, 2015 or earlier) (see discussion on Single Audit Act). CDBG funds can pay for the cost of auditing CDBG funds only. Since it is impossible to determine audit costs at the time of grant award, or even whether an audit will be required, grant increases can be approved each year once proper procurement has determined amount needed.

Procurement of audit services is subject to the provisions of 2 CFR 200 if CDBG funds are used for payment of audits. In this regard, an auditor ordinarily should be selected through competitive negotiation. This reduces the cost of services while allowing all qualified accountants to compete.

One of the best criteria for selecting an auditor is the degree to which the auditor is familiar with municipal accounting and CDBG/DED regulations with specific reference to performing professional, complete, and timely audits within budget.

Reference materials for required audits are: 24CFR 85 as modified by 24 CFR 570, Subpart J, “Grant Administration”; and 2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”

Single Audit Act of 1984, as amended 1996

One of the Single Audit Act's stated purposes is "to establish uniform requirements for audits of Federal assistance provided to state and local governments." The Amendment is **effective for fiscal years beginning after June 30, 1996** and sets thresholds for having a single audit:

1. The Act requires annual audits of entire entity for state and local governments that expend $500,000 or more of **Federal financial assistance** annually, for all fiscal years ending **after** December 31, 2003. **For fiscal years ending on December 31, 2015 or later, the threshold of total Federal expenditures raises to $750,000.**
2. If the total Federal assistance comes from one program only, then a program audit can be performed. If the assistance comes from more than one Federal program, a Single Audit must be performed.
3. If the amount is less than $500,000 (or $750,000 depending on the fiscal year), the entity is exempt from Federally imposed audit requirements, but must keep the necessary records that DED must review for that fiscal year. Contact DED for details.

The definition of **Federal financial assistance** goes beyond grants to include contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, and insurance. Subrecipients and their auditors should be aware that the Act does not prohibit entities that receive Federal funds indirectly (through a state agency) from having additional audit requirements imposed on them by the agency that provides the funding.

The audits are to be conducted by an independent auditor in accordance with the auditing standards issued by the General Accounting Office of financial and compliance audits.

The audit shall determine and report that:

1. The financial statements are presented fairly in accordance with GAAP, and the entity has complied with laws and regulations that may have a material effect on the financial statements.
2. The entity has internal control systems to provide reasonable assurance that it is managing Federal financial assistance in compliance with applicable laws and regulations.
3. The entity has complied with laws and regulations that may have a material effect upon each major Federal assistance program. In complying with this provision, the auditor shall select and test a representative number of transactions from each major program.

The Act specifically notes that many of the determinations required in a single audit are not guided by hard and fast rules. The Act provides that "the number of transactions selected and tested" for the purpose described above, "the selection and testing of such transactions, and the determinations required" for those purposes "shall be based on the professional judgment of the independent auditor."

The Act includes a definition of the "internal controls" which appears to go beyond strictly accounting controls. In the Act, internal controls mean "the plan of organization and methods and procedures adopted by management to ensure that:

1. Resource use is consistent with laws, regulations, and policies
2. Resources are safeguarded against waste, loss, and misuse
3. Reliable data is obtained, maintained, and fairly disclosed in reports

Refer to OMB Circular A-133 for more detail regarding this Act.

A copy of all single audits performed under this Act must be submitted to a central clearinghouse, as established by the Office of Management and Budget.

This address is: Federal Audit Clearinghouse
1201 East 10th Street
Jeffersonville, IN 47132
http://harvester.census.gov/sac/

If additional information is desired regarding this central clearinghouse requirement, the city/county should call (301) 763-1551.

Department of Economic Development

# STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
# CLOSE-OUT REPORT

1. Grantee: _____ 2. Project Number: _____
3. Address of Grantee: _____
4. Persons Completing this Report: _____
5. Number of citizen's written comments during grant period: _____

   If applicable, attach: **(a)** copy of each written citizen comment on the CDBG project performance which was received during the grant period; **(b)** the grantee's assessment of the comment; and **(c)** a description of any action taken or to be taken in response to the comment, as required by Section 104(d) of the Housing and Community Development Act of 1974, as amended, and by 24 CFR 570.

6. The grantee's authorized official representative certifies that:
   a. The data in this Report is true and correct as of the date noted below.
   b. The records described in 24 CFR Part 570 are being maintained and will be made available upon request.
   c. Federal assistance made available under the CDBG program is not being utilized to substantially reduce the amount of local financial support for community development activities below the level of such support prior to the start of the CDBG project being reported here.
7. Typed Name of Authorized Representative: Typed Title of Authorized Representative:

_____ _____

8. Signature of Authorized Representative: Date:

_____ _____

MO 419-2884 (05-07)

Department of Economic Development

## FORM 2: INCOME DATA FOR PROGRAM BENEFICIARIES

This form provides information on the low- and moderate-income, low-income, and very low-income project beneficiaries. Use the applicable section for this project. Do not report professional services. The totals for the individual percentage groups are **non-cumulative**: Low/Mod includes all beneficiaries between 80% and 50% of county median; Low includes all those between 50% and 30% of county median, and Very Low includes all those at and below 30%. The column for Total LMI includes **all those at or below 80% of county median**.

Grantee: _____

Project Number: _____

### DIRECT BENEFICIARIES:

| Activity #: | Activity Name: | Total Number of Direct Beneficiaries | Please list the number and percentage of direct beneficiaries who are: | | | | |
|---|---|---|---|---|---|---|---|
| | | | Total LMI Beneficiaries | | Low/Mod Income (80%) 80% - 50% | Low Income (50%) 50% - 30% | Very Low Income (30%) 30% and below |
| | | | # | % | # | # | # |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

### DIRECT BENEFICIARY APPLICANTS:

| Activity #: | Activity Name: | Total Number of Direct Beneficiaries Applicants | Please list the number and percentage of direct beneficiary applicants who are: | | | | |
|---|---|---|---|---|---|---|---|
| | | | Total LMI Beneficiaries | | Low/Mod Income (80%) 80% - 50% | Low Income (50%) 50% - 30% | Very Low Income (30%) 30% and below |
| | | | # | % | # | # | # |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

### INDIRECT BENEFICIARIES:

| Activity #: | Activity Name: | Total Number of Indirect Beneficiaries | Please list the number and percentage of indirect beneficiaries who are: | | | | |
|---|---|---|---|---|---|---|---|
| | | | Total LMI Beneficiaries | | Low/Mod Income (80%) 80% - 50% | Low Income (50%) 50% - 30% | Very Low Income (30%) 30% and below |
| | | | # | % | # | # | # |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

Department of Economic Development

## FORM 3: POPULATION GROUP DATA FOR DIRECT BENEFICIARIES

This form provides information on the number of persons directly benefiting and the distribution of beneficiaries among various population groups. Use one section per CDBG activity to be reported. The total for Direct Beneficiaries will include all direct beneficiaries, including those of Hispanic ethnicity. The total for Hispanic Direct Beneficiaries will include only those direct beneficiaries of Hispanic ethnicity. If reporting on more than two activities, use additional copies.

| **Grantee:** | | | **Project Number:** | | |
|---|---|---|---|---|---|
| **Activity Number:** | | | **Activity Number:** | | |
| **Activity Name:** | | | **Activity Name:** | | |
| | Total Direct Beneficiaries | Hispanic Direct Beneficiaries | | Total Direct Beneficiaries | Hispanic Direct Beneficiaries |
| White: | | | White: | | |
| Black/African American: | | | Black/African American: | | |
| Asian: | | | Asian: | | |
| American Indian/Alaskan Native: | | | American Indian/Alaskan Native: | | |
| Native Hawaiian/Other Pacific Islander: | | | Native Hawaiian/Other Pacific Islander: | | |
| American Indian/Alaskan Native & White: | | | American Indian/Alaskan Native & White: | | |
| Asian & White: | | | Asian & White: | | |
| Black/African American & White: | | | Black/African American & White: | | |
| Am. Indian/Alaskan Native & Black/African Am.: | | | Am. Indian/Alaskan Native & Black/African Am.: | | |
| Asian & Native Hawaiian/Other Pacific Islander: | | | Asian & Native Hawaiian/Other Pacific Islander: | | |
| All Others: | | | All Others: | | |
| **TOTAL** | | | **TOTAL** | | |
| Female Head of Household: | | | Female Head of Household: | | |
| Handicapped (Disabled): | | | Handicapped (Disabled): | | |
| Elderly: | | | Elderly: | | |

Department of Economic Development

## FORM 4: POPULATION GROUP DATA FOR DIRECT BENEFICIARY APPLICANTS

This form provides information on the number of persons who applied for CDBG Direct Benefit, and the distribution of those applicants among various population groups. Use one section per CDBG activity to be reported. The total for Direct Beneficiary applicants will include **all** direct beneficiary applicants, including those of Hispanic ethnicity. The total for Hispanic Direct Beneficiary applicants will include only those direct beneficiary applicants of Hispanic ethnicity. If reporting on more than two activities, use additional copies.

| **Grantee:** | | | **Project Number:** | | |
|---|---|---|---|---|---|
| **Activity Number:** | | | **Activity Number:** | | |
| **Activity Name:** | | | **Activity Name:** | | |
| | Total Direct Applicants | Hispanic Direct Applicants | | Total Direct Applicants | Hispanic Direct Applicants |
| White: | | | White: | | |
| Black/African American: | | | Black/African American: | | |
| Asian: | | | Asian: | | |
| American Indian/Alaskan Native: | | | American Indian/Alaskan Native: | | |
| Native Hawaiian/Other Pacific Islander: | | | Native Hawaiian/Other Pacific Islander: | | |
| American Indian/Alaskan Native & White: | | | American Indian/Alaskan Native & White: | | |
| Asian & White: | | | Asian & White: | | |
| Black/African American & White: | | | Black/African American & White: | | |
| Am. Indian/Alaskan Native & Black/African Am.: | | | Am. Indian/Alaskan Native & Black/African Am.: | | |
| Asian & Native Hawaiian/Other Pacific Islander: | | | Asian & Native Hawaiian/Other Pacific Islander: | | |
| All Others: | | | All Others: | | |
| **TOTAL** | | | **TOTAL** | | |
| Female Head of Household: | | | Female Head of Household: | | |
| Handicapped (Disabled): | | | Handicapped (Disabled): | | |
| Elderly: | | | Elderly: | | |

Department of Economic Development

## FORM 5: POPULATION GROUP DATA FOR INDIRECT BENEFICIARIES

This form provides information on the number of persons indirectly benefiting and the distribution of beneficiaries among various population groups. Use one section per CDBG activity to be reported. The total for Indirect Beneficiaries will include all indirect beneficiaries, including those of Hispanic ethnicity. The total for Hispanic Indirect Beneficiaries will include only those indirect beneficiaries of Hispanic ethnicity. If reporting on more than two activities, use additional copies.

| **Grantee:** | | | **Project Number:** | | |
|---|---|---|---|---|---|
| **Activity Number:** | | | **Activity Number:** | | |
| **Activity Name:** | | | **Activity Name:** | | |
| | Total Indirect Beneficiaries | Hispanic Indirect Beneficiaries | | Total Indirect Beneficiaries | Hispanic Indirect Beneficiaries |
| White: | | | White: | | |
| Black/African American: | | | Black/African American: | | |
| Asian: | | | Asian: | | |
| American Indian/Alaskan Native: | | | American Indian/Alaskan Native: | | |
| Native Hawaiian/Other Pacific Islander: | | | Native Hawaiian/Other Pacific Islander: | | |
| American Indian/Alaskan Native & White: | | | American Indian/Alaskan Native & White: | | |
| Asian & White: | | | Asian & White: | | |
| Black/African American & White: | | | Black/African American & White: | | |
| Am. Indian/Alaskan Native & Black/African Am.: | | | Am. Indian/Alaskan Native & Black/African Am.: | | |
| Asian & Native Hawaiian/Other Pacific Islander: | | | Asian & Native Hawaiian/Other Pacific Islander: | | |
| All Others: | | | All Others: | | |
| **TOTAL** | | | **TOTAL** | | |
| Female Head of Household: | | | Female Head of Household: | | |
| Handicapped (Disabled): | | | Handicapped (Disabled): | | |
| Elderly: | | | Elderly: | | |

Department of Economic Development

## FORM 6: PROJECT ACCOMPLISHMENTS

In quantitative terms, state the accomplishments achieved by activity line items for this project (e.g., number of houses rehabilitated, number of structures cleared, number of linear feet of water/sewer line installed, number of blocks of streets paved, etc.). If different from original application/funding approval, state reasons below.

1. Grantee: _____ 2. Project Number: _____

| 3. Activity Name | 4. Activity Number | 5. Project Accomplishments |
|---|---|---|
| | | |

Changes in the original project scope and reasons:

Department of Economic Development

## FORM U: DATA COLLECTION FOR CDBG ACTIVITIES

**Applicant:**

| Category | Corresponding Activity Data Required | |
|---|---|---|
| Community Facility | A | |
| Downtown Revitalization | C, possibly F(2) | |
| Microenterprise Program | D, E and/or F | |
| Other Public Needs: | | |
| Rural Affordable Housing | (see RAH application) | |
| ADA | A | |
| BSD | A | **Collected at time of Closeout** |
| Demolition | B | |
| Water/Sewer (Engineering Plans-Specs) | A | |

| Activity | Outcome Indicators | ACTUAL |
|---|---|---|
| A. Public facility or infrastructure activities | **Number of persons with:** | |
| B. | a. new access to benefit, or | |
| | b. improved access to benefit | |
| C. Demolition Only | **Number of demolitions:** | |
| D. Downtown Revitalization (with Demolition) | **1. Select One:** a) comprehensive, b) commercial, c) housing d) other_____ | |
| E. | **2. Choose at least 3 if comprehensive:** | |
| | a. # of new businesses assisted | |
| | b. # of businesses retained | |
| | c. # of jobs created or retained in area | |
| | d. $ leveraged | |
| | e. # of LMI persons | |
| | f. SB demolition | |
| | g. # LMI households assisted | |
| | h. # sq ft of remediated brownfields | |
| | i. # of HH with improved access | |
| | j. # of commercial facade/building rehabs | |
| | k. Optional indicators: | |
| F. Jobs Created | **Total number of Jobs:** | |
| G. | a. Of those, # emp-sponsored healthcare | |

| | | |
|---|---|---|
| | b. type of jobs created | |
| | c. # of unemployed before taking job | |
| H. Jobs Retained | **Total number of jobs:** | |
| I. | a. Of those, # emp-sponsored healthcare | |
| | b. type of jobs created | |
| J. Businesses Assisted | **1. Total businesses assisted:** | |
| | a. # new businesses | |
| | b. # existing businesses | |
| | Of those, # expansions | |
| | # relocations | |
| | c. DUNS # of business(es) | |
| | d. 2-digit NAICS industry class. | |
| | **2. Type of Assistance:** Working Capital (WC); New Construction (NC); Rehab (R); Machinery/Equipment (ME); Infrastructure (IF) | |
| | **3. Does the business help meet needs of community?** | |

Department of Economic Development

## FORM ED/1: ECONOMIC DEVELOPMENT CLOSE-OUT

Grantee: _____ Project No.: _____

Award Date: _____ Grant/Loan Amount: _____

FEIN #: _____ DUNS #: _____

1. Using information from the Funding Approval/Grant Agreement, provide the following data:

   A. Company(ies) Involved:

| Name | Jobs to be Created/Retained | Existing Employees (at Start of Project) |
|---|---|---|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

   B. Private Investment Release Date: _____

   C. Pledged private investment: _____

   D. Grantee cash match: _____

   E. Grantee in-kind match: _____

2. Status of project to date:

   A. Number of pledged jobs actually created/retained: _____

   B. If pledged job creation/retention goals have not been reached, explain why not.

   _____

   _____

   _____

C. Breakdown of jobs, job titles (see Employment Data under "Job Titles") and applicants:

| Company | Present Employment | New/ Retained Jobs | Job Titles | Total LMI | Number Low/Mod Income Between 80%-50% | Number Low Income Between 50%-30% | Number Very Low Income 30% and below |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| | | | | | | | |

| | Jobs | | Applicants | |
|---|---|---|---|---|
| | Total Direct Beneficiaries | Hispanic Direct Beneficiaries | Total Direct Beneficiaries | Hispanic Direct Beneficiaries |
| White: | | | | |
| Black/African American: | | | | |
| Asian: | | | | |
| American Indian/Alaskan Native: | | | | |
| Native Hawaiian/Other Pacific Islander: | | | | |
| American Indian/Alaskan Native & White: | | | | |
| Asian & White: | | | | |
| Black/African American & White: | | | | |
| Am. Indian/Alaskan Native & Black/African Am.: | | | | |
| All Others: | | | | |
| **TOTAL** | | | | |
| Female Head of Household: | | | | |
| Handicapped (Disabled): | | | | |
| Elderly: | | | | |
| Immediate Prior Unemployment | | | | |

D. Amount of private investment documented: _____

E. Amount of grantee cash match documented: _____

F. Amount of grantee in-kind match documented: _____

3. Program Income (Loan Only)

   A. Terms of loan: _____ / _____ / _____
      no. of years  interest rate  no. of installments

   B. Payable: _____ / First Installment Due: _____
      monthly, semi-annually, annually  date

   C. Option exercised by grantee regarding program income at time of funding (check one):
      ____ 1) Return all program income to State
      ____ 2) Return principal to State; retain interest
      ____ 3) Retain all program income

   D. Repayments made to date: _____ + _____ = _____
      principal  interest  total

   E. Amount on hand (not spent): _____

   F. Name of contact person regarding program income:

      Name: _____

      Agency: _____

      Telephone Number: _____

_____
Name of Grantee's Chief Elected Official

_____ _____
Signature of Grantee's Chief Elected Official  Date

_____
Name of Company's Chief Executive Officer

_____ _____
Signature of Company's Chief Executive Officer  Date

# INSTRUCTIONS FOR COMPLETING CERTIFICATE OF COMPLETION

**Section A**

Enter recipient name and address as shown on the Small Cities Close-out Report Cover Sheet

**Section B**

Enter the project number assigned on the Funding Approval

**Section C**

Final Statement of Program Costs: in Section C, complete columns (a) through (d) as follows:

Column (a) Program Activities: Use line C1 through C8 to list the program activities for which the project funds were budgeted. The program activities should reflect those activities documented in the Funding Approval and/or any executed amendments thereto. **(Activity numbers should be included for each item.)**

Column (b) Program Cost Paid: For each of the program activities listed in column (a), enter the amount of State funds that have been paid. The amount recorded in column (b) should pertain to State funds only. Use line C9 to record the total of paid costs, line C10 to record program income that will be applied to paid costs, and line C11 to record the difference between lines C9 and C10.

Column (c) Program Costs Unpaid: For each of the program activities listed in column (a), enter the amount of State funds that are unpaid. The amounts recorded in column (c) should pertain to State funds only. Use line C9 to record the total of unpaid costs, line C10 to record program income that will be applied to unpaid costs, and line C11 to record the difference between lines C9 and C10.

Column (d) Total (column b & c): Use column (d) to document the total program costs (paid and unpaid) for each contract program activity. Total program cost (line C9), program income applied to the program costs (line C10), and the grant amount applied to program (C11) should agree with audited amounts, if any.

Column (e) For State Use Only

**Section D**

| | |
|---|---|
| Status of Funds: | Complete only column (b) of Section D |
| Line D1: | Same amount as Section C, column (b), line C11 |
| Line D2: | Same amount as Section C, column (c), line C11 |
| Line D3: | Same amount as Section C, column (d), line C11 |
| Line D4: | Total grant award per Funding Approval |
| Line D5: | Unused grant amount to be cancelled, line D4 minus D3 |
| Line D6: | Community Development Block Grant funds received to date |
| Line D7: | Balance of grant funds, line D3 minus D6. If line D6 exceeds D3, then line D7 should be a negative amount. If negative amount, it must be immediately returned to the State. |

**Section E**

Certification of Recipient: Type name and title of the recipient's authorized official in the space provided. The grantee's authorized official must sign and date the document in the space provided.

**Section F**

Local Contribution: State the local match dollar amount pledged (as indicated on the grant application and/or grant agreement) and the **actual** local match documented.

**Section G**

Program Income Generated: Total program income received during the life of the project should be documented on the space provided. If program income was generated, the source and disposition should be clearly documented in essay format. If there is not program income, indicate with a zero in the appropriate space. Program income should agree with the amount documented in Section C, column (d), line C10.

**Section H**

Unpaid Costs: Describe in detail, dollar amounts, dates amounts are to be paid, and persons/companies owed. Same as Section C, column (c), line C11 and Section D, column (b), line D2.

**Section I**

Preparer's name, address, and telephone

**Section J**

Basis of Close-out: To be completed by State

**Section K**

State Execution: To be completed by State

Department of Economic Development

# CERTIFICATE OF COMPLETION

| A. **Name of Recipient:** | B. **Project Number:** |
|---|---|
| Address (City, State, Zip): | |

C. **Final Statement of Program Costs:**

| **TO BE COMPLETED BY GRANTEE** | | | | **FOR STATE USE ONLY** |
|---|---|---|---|---|
| Program Activities (Taken from Funding Approval/ Grant Agreement) (a) | Program Costs Paid (b) | Program Costs Unpaid (c) | Total (Column b + c) (d) | Approved Costs (e) |
| C1 Administration | | | | |
| C2 | | | | |
| C3 | | | | |
| C4 | | | | |
| C5 | | | | |
| C6 | | | | |
| C7 Total Program Cost (lines C1 – C6) | | | | |
| C8 Less: Prgm Income applied to program costs | | | | |
| C9 Equals: Grant Amt applied to program costs | | | | |

D. **Status of Funds:**

| Description (a) | To Be completed by Grantee | **FOR STATE USE ONLY** |
|---|---|---|
| | Amount (b) | Approved Costs (c) |
| D1 Grant Award Applied to Program Costs (from line C9, column (b)) | | |
| D2 Unpaid Program Costs (from line C9, column (c)) | | |
| D3 Subtotal (from line C9, column (d)) | | |
| D4 Award per Funding Approval/Grant Agreement | | |
| D5 Unused Grant to be **CANCELLED** (line D4 minus D3) | | |
| D6 Grant Funds Received to Date | | |
| D7 Balance of Grant Payable (line D3 minus D6)* | | |

*If line D6 exceeds line D3, enter the amount of excess on line D7 as a ***negative*** number. This amount shall be repaid immediately, by check, to the state.

E. **Certification of Grantee:** It is hereby certified that all activities undertaken by the Grantee with funds provided under the grant agreement in the heading above, have, to the best of my knowledge, been carried out in accordance with the grant agreement; that the proper provision has been made by the Grantee for the payment of all unpaid costs and unsettled third-party claims identified above; that the State of Missouri is under no obligation to make any further payment to the Grantee under the grant agreement in excess of the amount identified on line D7 hereof, and that every statement and amount set forth in this document is, to the best of my knowledge, true and correct as of this date.

| Date | Typed Name and Title | Signature of Authorized Official |
|---|---|---|

| | | |
|---|---|---|
| F. **Local Contribution:** | Per Funding Approval/Grant Agreement | $_____ |
| | Actual Total Match | $_____ |
| G. **Program Income Generated:** (see line C8) | Amount of Program Income | $_____ |
| | Source of Program Income? | |
| | Disposition of Program Income? | |

H. **Document here any unpaid costs/unsettled third-party claims noted at D2. Describe circumstances and dollar amounts involved:**

I. **Person who can best answer questions about this report (preparer):**

Name: _____ Telephone: _____

Address: _____ City: _____

State: _____ Zip Code: _____

J. **Basis of Close-out (*to be completed by State*)**

□Regular Close-out: All conditions of the grant have been met.

□Administrative Close-out: All conditions have been met except for the following audit(s):

_____

(Any costs disallowed by audit(s) of these funds shall be returned to the State, if sustained by DED.)

K. **State Execution:**

This Certificate of Completion is hereby approved on conditions stated in J. above. Unused committed contract funds have been deobligated in the amount of $ _____ on _____, Amendment No. _____.

Department of Economic Development
CDBG Program

By: _____

Date: _____

# Eligible Activities

1. Property Acquisition
2. Property Disposition
3. Property Clearance/Demolition
4. Architectural Barrier Removal
5. Senior Center
6. Community Facilities
7. Centers for the Handicapped
8. Historic Properties
9. Water Treatment
10. Sanitary Sewer Collection
11. Storm Sewers
12. Flood and Drainage Facilities
13. Streets (or Roads)
14. Street Accessories
15. Parking Facilities
16. Bridges
17. Sidewalks
18. Pedestrian Malls
19. Recycling or Conversion Facilities
20. Parks and Recreation Facilities
21. Fire Protection/Facility Equipment
22. Solid Waste Disposal Facilities
23. Other Utilities
24. Public Service/Supportive Services
25. Rehabilitation of Private Residential Properties
26. Rehabilitation of Public Residential Properties
27. Payments for Loss of Rental Income
28. Relocation
29. Code Enforcement
30. Energy Use Strategy
31. Non-Federal Share Payment
32. Interim Assistance
33. Planning
34. Commercial or Industrial Facilities
35. Administration
36. Engineering/Design
37. Housing Rehab/Demo Inspection
38. Engineering/Construction Inspection
40. Audit
41. Port Facility
42. Airports
43. Natural Gas Lines
44. Electrical Distribution Lines
45. Rail Spurs
46. Lighting
47. Other Professional Services
48. Security Fencing
49. Site Preparation
50. Purchase Land/Building
51. Facility Construction Renovation
52. Machinery/Equipment
53. Working Capital
54. Sewage Treatment
55. LDC Homeownership Assistance – up to $15,000 to purchase a new home
56. Legal
57. 911 Emergency Systems
60. Homeowners Assistance- up to $5,000 to purchase an existing DSS home
61. Lead-Based Paint Risk Assessment
62. Asbestos Removal
63. Job Training*
64. Home-Ownership Counseling
65. Substantial Reconstruction of the reconstruction of private residential properties on same lot- up to $15,000
66. Water Distribution
67. Lead Reduction NOT incidental to Rehab
68. Asbestos Inspection

*Job training activities must be: 1) approved by Job Development and Training or the Private Industry Council, and 2) exist as an element of a welfare to work initiative as it relates to an ED project.




## CONTRACT AND SUBCONTRACT ACTIVITY – ANNUAL REPORT DUE ON OCTOBER 2ND

| 1. Grantee | | | 2. Location (City, State, Zip Code) | | |
|---|---|---|---|---|---|
| 3. Grant Number | 4. Name of Contact Person | | 5. Phone Number (include area code) | 6. Reporting Period: | 7. Date Submitted: |

| 8. Grant Activity Number | 9. Amount of Contract/or Subcontract | 10. Racial Codes (See below) | 11. Hispanic (Yes/No) | 12. Female-Owned Business (yes/no) | 13. Section 3 Business (yes/no) | 14. Prime Contractor Identification (ID) number | 15. Subcontractor Identification (ID) number | 16. Contractor or Subcontractor Name and Address | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | Name | Street or P.O. Box | City | State | Zip Code |
| | | | | | | | | | | | | |
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### HUD/CDBG Designated Racial Codes

1. White Americans
2. Black or African Americans
3. Native Americans
4.. Hispanic Americans
5, Asian/Pacific Americans
6. Hasidic Jews

# INSTRUCTIONS FOR COMPLETING CONTRACT AND SUBCONTRACT ACTIVITY REPORT (CSAR)

Instructions by Column and Box:

1. Grantee – enter the name of the unit of government submitting this report.
2. City Location – enter street, city, state, and zip code of grantee.
3. Enter DED project number for this CDBG grant.
4. Contact person – enter name of the person responsible for completing and submitting CSAR report for the grantee to DED
5. Enter phone number of contact person & their email address.
6. Enter the Federal fiscal year reporting period (12- month period beginning October 1, 20_ - September 30, 20__).
7. Enter date the CSAR report is submitted to CDBG.
8. Grant Activity Number – enter applicable activity number from Funding Approval.
9. Amount of contract/subcontract – enter the exact dollar amount. **Be sure to report only CDBG funds in this column.**
10. **Enter the date of contract award by grantee or date of execution of the contract by the grantee.**
11. HUD Ethnicity # Designation – enter the single number, from the CSAR form, (1 thru 6) that indicates the racial/ethnic character of the owner of 51% or more of the business. When 51% or more is not owned and controlled by any single racial/ethnic category, enter the number that seems most appropriate. The ethnic designations must be used for subcontractors and prime contractors.
12. Hispanic – enter yes or no indicating whether or not the owner/controllers are of Hispanic origin. Yes would indicate a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
13. Female-Owned Business – enter yes or no indicating whether or not the business is female-owned. A female-owned business is one that is 51% or more owned or controlled by a female(s).
14. Section 3 Business – enter yes or no indicating whether or not the contract is with a Section 3 business. A Section 3 business is one that is either 51% owned by a Section 3 resident(s) of the grantee's jurisdiction or county, or 30% of all full-time employees are Section 3 residents, or any project contractor that awards 25% of all its subcontracts to a Section 3 business(es).
15. Contractor Employer Identification (ID) Number – enter the Employer (IRS) number of the prime contractor as the unique identifier for the prime recipient of CDBG funds. **Note that the IRS number must be provided for each contract and subcontract awarded.**
16. Subcontractor Identification (ID) Number – enter the Employer IRS number of each subcontractor awarded a subcontract paid with CDBG funds. When a subcontractor's IRS number is provided in column 16, the respective prime contractor's IRS number must also be provided in column 15.
17. Contractor/Subcontractor Name and Address – enter this information for all firms receiving CDBG funded contracts or subcontracts. (The street address information needs to be listed only once per firm on the Contract & Subcontract Activity Report (CSAR).

# Section 3 Summary Report

Economic Opportunities for
Low – and Very Low-Income Persons

U.S. Department of Housing
and Urban Development
Office of Fair Housing
And Equal Opportunity

OMB Approval No: 2529-0043
(exp. 11/30/2010)

HUD Field Office:

Section back of page for Public Reporting Burden statement

| 1. Recipient Name & Address: (street, city, state, zip) | 2. Federal Identification: (grant no.) | 3. Total Amount of Award: |
|---|---|---|
| | 4. Contact Person | 5. Phone: (Include area code) |
| | 6. Length of Grant: | 7. Reporting Period: |
| 8. Date Report Submitted: | 9. Program Code: (Use separate sheet for each program code) | 10. Program Name: |

**Part I: Employment and Training** (** Columns B, C and F are mandatory fields. Include New Hires in E &F)

| A<br>Job Category | B<br>Number of New Hires | C<br>Number of New Hires that are Sec. 3 Residents | D<br>% of Aggregate Number of Staff Hours of New Hires that are Sec. 3 Residents | E<br>% of Total Staff Hours for Section 3 Employees and Trainees | F<br>Number of Section 3 Trainees |
|---|---|---|---|---|---|
| Professionals | | | | | |
| Technicians | | | | | |
| Office/Clerical | | | | | |
| Construction by Trade (List)<br>Trade | | | | | |
| Trade | | | | | |
| Trade | | | | | |
| Trade | | | | | |
| Trade | | | | | |
| Other (List) | | | | | |
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| | | | | | |
| | | | | | |
| Total | | | | | |

* Program Codes
1 = Flexible Subsidy
2 = Section 202/811

3 = Public/Indian Housing
A = Development,
B = Operation
C = Modernization

4 = Homeless Assistance
5 = HOME
6 = HOME State Administered
7 = CDBG Entitlement

8 = CDBG State Administered
9 = Other CD Programs
10 = Other Housing Programs



form HUD 60002 (6/2001)
Ref 24 CFR 135

**Part II: Contracts Awarded**

1. Construction Contracts:

| | |
|---|---|
| A. Total dollar amount of all contracts awarded on the project | $ |
| B. Total dollar amount of contracts awarded to Section 3 businesses | $ |
| C. Percentage of the total dollar amount that was awarded to Section 3 businesses | % |
| D. Total number of Section 3 businesses receiving contracts | |

2. Non-Construction Contracts:

| | |
|---|---|
| A. Total dollar amount all non-construction contracts awarded on the project/activity | $ |
| B. Total dollar amount of non-construction contracts awarded to Section 3 businesses | $ |
| C. Percentage of the total dollar amount that was awarded to Section 3 businesses | % |
| D. Total number of Section 3 businesses receiving non-construction contracts | |

**Part III: Summary**

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low-and very low-income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

_____ Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with the community organizations and public or private agencies operating within the metropolitan area (or nonmetropolitan county) in which the Section 3 covered program or project is located, or similar methods.
_____ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
_____ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
_____ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
_____ Other; describe below.

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB number.

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u, mandates that the Department ensures that employment and other economic opportunities generated by its housing and community development assistance programs are directed toward low- and very-low income persons, particularly those who are recipients of government assistance housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to Congress, and by recipients as self-monitoring tool. The data is entered into a database and will be analyzed and distributed. The collection of information involves recipients receiving Federal financial assistance for housing and community development programs covered by Section 3. The information will be collected annually to assist HUD in meeting its reporting requirements under Section 808(e)(6) of the Fair Housing Act and Section 916 of the HCDA of 1992. An assurance of confidentiality is not applicable to this form. The Privacy Act of 1974 and OMB Circular A-108 are not applicable. The reporting requirements do not contain sensitive questions. Data is cumulative; personal identifying information is not included.

Form HUD-60002, **Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons.**

**Instructions:** This form is to be used to report annual accomplishments regarding employment and other economic opportunities provided to low- and very low-income persons under Section 3 of the Housing and Urban Development Act of 1968. The Section 3 regulations apply to any ***public and Indian housing programs*** that receive: (1) development assistance pursuant to Section 5 of the U.S. Housing Act of 1937; (2) operating assistance pursuant to Section 9 of the U.S. Housing Act of 1937; or (3) modernization grants pursuant to Section 14 of the U.S. Housing Act of 1937 and to **recipients of housing and community development assistance in excess of $200,000** expended for: (1) housing rehabilitation (including reduction and abatement of lead-based paint hazards); (2) housing construction; or (3) other public construction projects; and to ***contracts and subcontracts in excess of $100,000*** awarded in connection with the Section-3-covered activity.

Form HUD-60002 has three parts, which are to be completed for all programs covered by Section 3. Part I relates to ***employment and training***. The recipient has the option to determine numerical employment/training goals either on the basis of the number of hours worked by new hires (columns B, D, E and F). Part II of the form relates to ***contracting***, and Part III summarizes recipients' ***efforts*** to comply with Section 3.

Recipients or contractors subject to Section 3 requirements must maintain appropriate documentation to establish that HUD financial assistance for housing and community development programs were directed toward low- and very low-income persons.* A recipient of Section 3 covered assistance shall submit one copy of this report to HUD Headquarters, Office of Fair Housing and Equal Opportunity. Where the program providing assistance requires an annual performance report, this Section 3 report is to be submitted at the same time the program performance report is submitted. Where an annual performance report is not required, this Section 3 report is to be submitted by January 10 and, if the project ends before December 31, within 10 days of project completion. ***Only Prime Recipients are required to report to HUD. The report must include accomplishments of all recipients and their Section 3 covered contractors and subcontractors.***

HUD Field Office: Enter the Field Office name .

1. Recipient: Enter the name and address of the recipient submitting this report.
2. Federal Identification: Enter the number that appears on the award form (with dashes). The award may be a grant, cooperative agreement or contract.
3. Dollar Amount of Award: Enter the dollar amount, rounded to the nearest dollar, received by the recipient.

4 & 5. Contact Person/Phone: Enter the name and telephone number of the person with knowledge of the award and the recipient's implementation of Section 3.

6. Reporting Period: Indicate the time period (months and year) this report covers.
7. Date Report Submitted: Enter the appropriate date.
8. Program Code: Enter the appropriate program code as listed at the bottom of the page.
9. Program Name: Enter the name of HUD Program corresponding with the "Program Code" in number 8.

**Part I: Employment and Training Opportunities**

**Column A:** Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

**Column B: (Mandatory Field)** Enter the number of new hires for each category of workers identified in **Column A** in connection with this award. New hire refers to a person who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

**Column C: (Mandatory Field)** Enter the number of Section 3 new hires for each category of workers identified in **Column A** in connection with this award. Section 3 new hire refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award or at the time of receipt of Section 3 covered assistance.

**Column D:** Enter the percentage of all the staff hours of new hires (Section 3 residents) in connection with this award.

**Column E:** Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

**Column F: (Mandatory Field)** Enter the number of Section 3 residents that were trained in connection with this award.

Part II: Contract Opportunities

**Block 1:** Construction Contracts

**Item A:** Enter the total dollar amount of all contracts awarded on the project/program.

**Item B:** Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

**Item C:** Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

**Item D:** Enter the number of Section 3 businesses receiving awards.

**Block 2:** Non-Construction Contracts

**Item A:** Enter the total dollar amount of all contracts awarded on the project/program.

**Item B:** Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

**Item C:** Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

**Item D:** Enter the number of Section 3 businesses receiving awards.

**Part III:** Summary of Efforts – Self -explanatory

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Submit one (1) copy of this report to the HUD Headquarters Office of Fair Housing and Equal Opportunity, at the same time the performance report is submitted to the program office. The Section 3 report is submitted by January 10. Include only contracts executed during the period specified in item 8. PHAs/IHAs are to report all contracts/subcontracts.

* The terms "low-income persons" and very low-income persons" have the same meanings given the terms in section 3 (b) (2) of the United States Housing Act of 1937. ***Low-income persons*** mean families (including single persons) whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that

The Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings such that variations are necessary because of prevailing levels of construction costs or unusually high- or low-income families. ***Very low-income persons*** mean low-income families (including single persons) whose incomes do not exceed 50 percent of the median family income area, as determined by the Secretary with adjustments or smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

## **CLOSE-OUT HELPFUL HINTS**

- There is no such thing as an interim close-out with CDBG.
- All numbers and percentages reported for beneficiaries should add up, when appropriate.
- All dollar values reported at close-out should add up to reflect expenditures or returned funds.
- Complete the Disclosure Report in full and submit with the close-out packet.
- Include a copy of the engineer's certification of work completed with the close-out packet.
- Respond to and resolve all comments made at close-out public hearing.
- LMI Totals are CUMULATIVE.

# CHAPTER XII

## ECONOMIC DEVELOPMENT

Economic Development grants are offered when job creation or retention is at stake and when the company(s) is clearly creating the need and the beneficiaries of the project. If the project benefits a majority of residents in the community, it is not a CDBG Economic Development project, but should be applied for through regular CDBG funded activities.

CDBG Economic Development (Infrastructure Grant, Action Fund Loan, Interim Financing, or Microenterprise) projects have unique requirements of administration, which are in addition to the procedures for other CDBG projects. Since the project requirements often include counting jobs and private investment and since a third party exists in the form of a private company, a project transition meeting is essential. The following items shall be discussed in a **transition meeting** held at the time of funding commitment. The transition meeting must be attended by representatives from the company, the grantee, and the state.

## DOCUMENT THE NATIONAL OBJECTIVE

Economic Development projects may be funded based upon job creation (most often used) or job retention. A grantee providing assistance to a business must assure the documentation **of low-and moderate-income (LMI)** job creation/retention. The grantee must undertake all front-end reviews and safeguards before assisting a business with CDBG funds. These steps may include:

1. Obtaining a list of prospective permanent jobs and their full-time equivalents, proposed for creation by the company, with a breakdown of those positions which involve the employment of LMI persons
2. Identifying those positions that can only be filled by persons with substantial training, work experience, or education beyond high school and whether or not the business will agree to hire, and train as necessary, LMI persons for these jobs
3. Including in loan agreements specific LMI job requirements and the standards for compliance, reporting, and recordkeeping

The Missouri CDBG program requires that at least 51% of all jobs created or retained shall be held by LMI persons. Documentation of LMI status is achieved through the completion of an Employee Status Statement.

## CREATION OF JOBS FOR LMI PERSONS

The creation of jobs qualifies for CDBG funding when the following conditions are met. These conditions include, but are not limited to:

1. The job is full time (or a number of part time jobs add up to a full time equivalent)
2. The job is permanent, not temporary
3. The job is located at the same facility where the project is occurring
4. The jobs are not new jobs (i.e., retained jobs). This requires new jobs above the current level of employment, which are documented at the time of the award.
5. The Employee Status Statement and a current payroll listing are available
6. The jobs are created after the date recorded in the agreement
7. The Alien Employment restrictions have been met
8. The total jobs equal the amount pledged and at least 51% are adequately documented as LMI

The Participation Agreement and contract forms may require additional conditions for job creation.

## RETENTION OF JOBS FOR LMI PERSONS

The number of jobs considered to be retention jobs, as involving the employment of LMI persons, shall be limited to the total of:

1. Those jobs **known to be held by** LMI persons at the time assistance is provided
2. Any other jobs **that can reasonably be expected to become available through turnover** to low- and moderate-income persons in a period of two years thereafter

Clearly, retaining a job already held by an LMI person would qualify that job as benefiting an LMI person. To determine whether the person already employed is LMI, use the person's family income at the time the CDBG assistance is provided.

Accordingly, if a CDBG-assisted business can demonstrate that at least 51% of the jobs retained are held by LMI persons, the activity would qualify as meeting the national objective.

## PERMANENT JOBS

Only permanent jobs may be considered in determining benefit for LMI persons; **temporary jobs**, such as construction jobs, may not be counted. **Permanent, part-time jobs** may be considered, but would have to be converted to a full time equivalent for purposes of calculating the 51% benefit. This applies regardless of when the project was funded by the state.

## ADDITIONAL REPORTING

The racial/ethnic characteristics of all job applicants must be tracked. This information may be tracked by the company or an outside organization, such as the local Job Service. The applicant information must be tracked from the time of the funding commitment (or other agreed-upon date) until project close-out. Contact the CDBG staff for questions regarding the applicability with confidentiality and civil rights laws.

## LMI

**A person may be presumed to be LMI in either of the following cases:**

1. The employee resides in, or the assisted business through which he is employed is located in, a census tract that is part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:
    a. Has a poverty rate of at least 20% according to the most recent census data
    b. Does not include any portion of the CBD (Central Business District) unless the tract has a poverty rate of at least 30%
    c. There is evidence of pervasive poverty and general distress by meeting at least one of the following:
        i. All block groups within the tract have poverty rates of at least 20%
        ii. The specific activity is located in a block group with a poverty rate of at least 20%
        iii. Upon written request, HUD determines that the census tract exhibits other signs of distress such as high crime, drug use, homelessness, abandoned housing, deteriorated infrastructure, or substantial population decline
2. The employee resides in a census tract where not less than 70% of the residents are LMI persons

**On infrastructure grants, the national objective requirement shall be met as follows:**

1. Before assistance is provided, the local government must identify the businesses located or expected to be located in the area to be served by the public improvement. Each business must project the number of jobs expected to be created as a result of the improvement.

2. The jobs to be considered are all those in the assessment as well as any other businesses that are located in the area within a period of one year following the completion of the public improvement.

**The grantee is responsible for obtaining all documentation of jobs created and LMI benefit**. At the application stage, the company/industry agrees to provide this information to the grantee. Failure to do so could result in grantee ineligibility for future funding or return of monies to DED.

## PRIVATE INVESTMENT COMMITMENT

The grantee is also responsible for obtaining documentation of the private investment from the business(es) (in the form of paid invoices, canceled checks, or audited financial statements) according to the application and/or grant agreement for the project. This should be done from the beginning of the grant until the private investment is accomplished.

## CITIZEN PARTICIPATION

One public hearing must be held at least 5 days prior to the submission date of the ED application and must address the proposed project and community needs. A second public hearing must be held prior to project close-out to discuss grant performance. (See the Citizen Participation Chapter.)

## LABOR STANDARDS

Federal and State wage rate regulations will likely apply to the project. This determination should be made at the beginning of the project or at application stage in order to avoid non-compliance delays. See the Labor Standards Chapter or contact the CDBG Labor Specialist.

## PROCUREMENT

**Private companies that are loaned CDBG funds are not bound to procurement requirements of PL 103-355**, which are applicable only to public entities. (See the Procurement Chapter.) In the case of a **grant** to a public entity, competitive procurement requirements are triggered and will be monitored.

## CONFLICT-OF-INTEREST POLICY

This policy is applicable to all CDBG programs and is included for reference in this manual. (See the Procurement Chapter.)

## ENVIRONMENTAL REVIEW

The environmental review procedure is the same as with the other project types and is covered in the Environmental Review Chapter of this manual. The review must cover the **entire** economic development project, including **both the private and public funded activities**. Contact the CDBG Environmental Review Specialist for further questions.

## CIVIL RIGHTS

All economic development grantees must comply with basic civil rights requirements of the program, including the furthering of fair housing, procurement of MBE and WBE firms, certifications and information in contracting documents, and gathering of direct and indirect beneficiary data, including applicants for jobs created.

## RFF DOCUMENTATION

All loan (Action Fund and Interim Financing) grantees are required to submit invoices for all requests for CDBG funds.

## CLOSE-OUT

Additional information is required to close-out an economic development project. (See the Close-out Chapter.)

## PROGRAM INCOME

The grantee should have a mechanism in place which tracks the receipt and disbursement of program income (loan repayment). Reporting of program income is required twice annually, January 15 and July 15, until fulfillment of terms of policy or formal release from DED. All program income, beginning with FY93 money, carries all original requirements of the CDBG regulations, no matter how many times it is reused. The grantee is responsible for assuring compliance and will be monitored for same. Contact the CDBG Financial Analyst for additional information.

## TIMING OF JOBS

Normally, jobs created through the economic development program are counted toward meeting the national objective if they are in place at the time of grant close-out. However, **if documentation can be provided** of economic downturn causing job loss prior to close-out, those lost jobs will be considered toward the national objective. Turnover of a new job cannot be counted as more than one job prior to close-out; the individual in place at the time of close-out shall be the one counted.

It is important to note that all of the above items unique to economic development projects will be addressed during monitoring visits.

# DOCUMENTATION FOR JOBS FOR LMI PERSONS

| | |
|---|---|
| At time of Application Submission: | 1. List of prospective permanent jobs, by when and basis for estimate. |
| | 2. For infrastructure grants, a list of all businesses located or expected to be located in the area to be served by the public improvement. (Each business must project the number of prospective jobs.) |
| | 3. List of LMI jobs, by when and percent of total. |
| | 4. Number of proposed jobs to be created:<br>a. Taken by (held by) and why reasonable. |
| | 5. Documentation of retained jobs, held by LMI. |
| | 6. For retained jobs, evidence the jobs would be lost without the assistance. |
| At Monitoring & Final Report | 1. Total number of jobs created (Employment Summary Sheet, backed by current company listing of employees, including date of hire). |
| | 2. Number of LMI jobs. |
| | 3. Data for LMI hired (Employment Status Statements). |
| | 4. List of all job applicants since grant inception and the racial/ethnic background of each. |

**EVEN THOUGH THESE FORMS ARE VOLUNTARY, IT SHOULD BE NOTED THAT ALL JOBS CREATED AS A RESULT OF THIS PROJECT MUST BE DOCUMENTED TO BENEFIT 51% LMI PERSONS. MAKING THESE FORMS A PART OF THE JOB APPLICATION PROCESS WILL AID IN THE REQUIRED DOCUMENTATION.**

## INSTRUCTIONS FOR COMPLETING EMPLOYMENT FORMS

1. Employment Status Statement:

   Refer to the listing of family income ranges for the applicable county or Metropolitan Statistical Area (MSA) and enter in the spaces provided (see example).

2. Employment Summary Sheet:

   Use same family income ranges as used on Employment Status Statement for the appropriate county. Please note that employees who do not complete the form are considered **non-LMI** and must be figured in the LMI percentage benefit (see example).

3. Applicant Summary Sheet:

   This form became effective with FY93 funds and, as stated, requires the racial/ethnic characteristics of all applicants for jobs, including hires.

   **NOTES:**

   Documentation for retained employees must be obtained at the time of application based on current household income. The applicant for a new job should indicate his household income prior to employment with the firm.

   To determine if an employee is an LMI beneficiary, compare family size and family income to the income ranges. In the first example, the employee's family size is three and family income is between $21,200 and $33,900. Referring to the income ranges on the LMI Summary Sheet, the employee is below the $33,900 limit for a family of three. Therefore, the employee is considered LMI. Again, all employees not completing the form must be considered non-LMI. **Use this same principal for the survey portion of the Employment Status Statement. Please note the addition of an income for 30% of median income.**

   Tabulate the Employment Status Statements and record the results on the Employment Summary Sheet.

Department of Economic Development

# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
# EMPLOYMENT STATUS STATEMENT

**Name of Company:**_____

**The above company has participated in a federal program that requires that certain employment standards be met. Completion of this form is VOLUNTARY, and this information will be kept confidential, with access only to the company's personnel official, representative of the city/county who is administering the program, and the Sate of Missouri who oversees the program.**

Family – husband, wife, and all dependents as defined by the IRS for income tax purposes.

Family Income – Total yearly income from all family members over the age of 18. If you are an applicant, this would be prior to employment with the company. If you are a current employee, this will include present salary.

| FAMILY SIZE | INCOME LIMITS | | |
|---|---|---|---|
| | A (30%) | B (50%) | C (80%) |
| 1 | _____ TO | _____ TO | _____ |
| 2 | _____ TO | _____ TO | _____ |
| 3 | _____ TO | _____ TO | _____ |
| 4 | _____ TO | _____ TO | _____ |
| 5 | _____ TO | _____ TO | _____ |
| 6 | _____ TO | _____ TO | _____ |
| 7 | _____ TO | _____ TO | _____ |
| 8+ | _____ TO | _____ TO | _____ |

**FAMILY SIZE:**_____

❑ **Income Above Column C**

❑ **Income between Column B & C**

❑ **Income between Column A & B**

❑ **Income below Column A**

**Please check all of the following that apply to you:**

| | | |
|---|---|---|
| ❑ Over the Age of 62 | ❑ Handicapped/Disabled | ❑ Female Head of Household |

| | | |
|---|---|---|
| Were you unemployed prior to accepting this position? | ❑ YES | ❑ NO |

**ETHNICITY:**

| | |
|---|---|
| ❑ Hispanic | ❑ Non-Hispanic |

**RACE:**

| | |
|---|---|
| ❑ White | ❑ Asian & White |
| ❑ Black/African American | ❑ Black/African American & White |
| ❑ Asian | ❑ Am. Indian/Alaskan Native & Black/African Am. |
| ❑ American Indian/Alaskan Native | ❑ Asian & Native Hawaiian/Other Pacific Islander |
| ❑ Native Hawaiian/Other Pacific Islander | ❑ All Others |
| ❑ American Indian/Alaskan Native & White | |

**To the best of my knowledge, the above information is true and can be verified if requested by proper officials of the city/county of the State of Missouri. I also certify that I am authorized to work in the United States and can produce evidence of work authorization.**

| | |
|---|---|
| NAME PRINTED | SIGNATURE [Required] |
| JOB TITLE | DATE |

Department of Economic Development

# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
# EMPLOYMENT STATUS STATEMENT (EXAMPLE)

**Name of Company:** **Freedom Campers**

**The above company has participated in a federal program that requires that certain employment standards be met. Completion of this form is VOLUNTARY, and this information will be kept confidential, with access only to the company's personnel official, representative of the city/county who is administering the program, and the Sate of Missouri who oversees the program.**

Family – husband, wife, and all dependents as defined by the IRS for income tax purposes.

Family Income – Total yearly income from all family members over the age of 18. If you are an applicant, this would be prior to employment with the company. If you are a current employee, this will include present salary.

| FAMILY SIZE | INCOME LIMITS | | | | | |
|---|---|---|---|---|---|---|
| | A (30%) | | B (50%) | | C (80%) | |
| 1 | $9,900 | TO | $16,500 | TO | $26,400 | |
| 2 | $11,300 | TO | $18,850 | TO | $30,150 | |
| 3 | $12,700 | TO | $21,200 | TO | $33,900 | |
| 4 | $13,950 | TO | $23,250 | TO | $37,200 | |
| 5 | $15,050 | TO | $25,100 | TO | $40,200 | |
| 6 | $16,200 | TO | $26,950 | TO | $43,150 | |
| 7 | $17,300 | TO | $28,850 | TO | $46,150 | |
| 8+ | $18,400 | TO | $30,700 | TO | $49,100 | |

**FAMILY SIZE:** 3

☐ **Income Above Column C**

☒ **Income between Column B & C**

☐ **Income between Column A & B**

☐ **Income below Column A**

**Please check all of the following that apply to you:**

| | | |
|---|---|---|
| ☐ Over the Age of 62 | ☐ Handicapped/Disabled | ☒ Female Head of Household |

| | | |
|---|---|---|
| Were you unemployed prior to accepting this position? | ☒ YES | ☐ NO |

**ETHNICITY:**

| | |
|---|---|
| ☐ Hispanic | ☒ Non-Hispanic |

**RACE:**

| | |
|---|---|
| ☐ White | ☐ Asian & White |
| ☒ Black/African American | ☐ Black/African American & White |
| ☐ Asian | ☐ Am. Indian/Alaskan Native & Black/African Am. |
| ☐ American Indian/Alaskan Native | ☐ Asian & Native Hawaiian/Other Pacific Islander |
| ☐ Native Hawaiian/Other Pacific Islander | ☐ All Others |
| ☐ American Indian/Alaskan Native & White | |

**To the best of my knowledge, the above information is true and can be verified if requested by proper officials of the city/county of the State of Missouri. I also certify that I am authorized to work in the United States and can produce evidence of work authorization.**

| | |
|---|---|
| NAME PRINTED: **Sally Jones** | SIGNATURE [Required] |
| JOB TITLE: **Press Operator** | DATE: **June 23, 2004** |

Department of Economic Development

# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
# EMPLOYMENT SUMMARY SHEET

**Section I**

Company: _____ Date: _____

Grantee: _____ Project No: _____

County: _____

**LMI SUMMARY**

| NUMBER PERSONS IN FAMILY | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8+ |
|---|---|---|---|---|---|---|---|---|
| **COUNTY LMI LEVEL (insert income limits appropriate to family size.)** | | | | | | | | |
| **# of EMPLOYEES @ LMI LEVEL* (all persons below the Moderate income limit)** | | | | | | | | |

*As noted on the Employment Status Statement, if an employee's income is between Moderate and Low, Low and 30% of Median, or below 30% of Median, the employee is considered LMI.

**Section II**

1. Total Current Employees: _____
2. Total Employees (New or Retained) Applicable to This Project: _____
3. Total Employees Filling Out Salary Sheet:_____

   **(Employees not completing form are considered non-LMI)**

4. Total # Employees @ LMI Level _____ Or_____ %
5. Total Minorities _____ Total Handicap (Disabled) _____

   Total Female Head of Household _____Total Elderly _____

SIGNATURE OF COMPANY REPRESENTATIVE:_____

Attachments:
1. Current company employee listing, including date of hire.
2. Employment Status Statements for #3 above.

Department of Economic Development

# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
# EMPLOYMENT SUMMARY SHEET (EXAMPLE)

**Section I**

Company: Freedom Camper  Date: 8/3/01

Grantee: Clark  Project No: 01-ED-022

County: Adair

**LMI SUMMARY**

| NUMBER PERSONS IN FAMILY | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8+ |
|---|---|---|---|---|---|---|---|---|
| COUNTY LMI LEVEL (insert income limits appropriate to family size.) | 9,900 to 26,400 | 11,300 to 30,150 | 12,700 to 33,900 | 14,150 to 37,700 | 15,250 to 40,700 | 16,400 to 43,700 | 17,500 to 46,700 | 18,650 to 49,750 |
| # of EMPLOYEES @ LMI LEVEL* (all persons below the Moderate income limit) | 3 | 8 | 9 | 5 | 4 | 1 | 0 | 0 |

*As noted on the Employment Status Statement, if an employee's income is between Moderate and Low, Low and 30% of Median, or below 30% of Median, the employee is considered LMI.

**Section II**

1. Total Current Employees: 50
2. Total Employees (New or Retained) Applicable to This Project: 42
3. Total Employees Filling Out Salary Sheet: 39

   **(Employees not completing form are considered non-LMI)**
4. Total # Employees @ LMI Level 30 Or 77 %
5. Total Minorities 2 Total Handicap (Disabled) 0

   Total Female Head of Household 14 Total Elderly 0

SIGNATURE OF COMPANY REPRESENTATIVE: _____

Attachments:
1. Current company employee listing, including date of hire.
2. Employment Status Statements for #3 above.

Department of Economic Development

# COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
# APPLICANT SUMMARY SHEET

Name of Company: _____ Project No.: _____

Grantee: _____ Date:_____

Including the hires on the EMPLOYMENT SUMMARY SHEET, please complete the following for all **applicants** for the jobs involved in this project:

| | Total Applicants | Hispanic Applicants |
|---|---|---|
| White: | | |
| Black/African American: | | |
| Asian: | | |
| American Indian/Alaskan Native: | | |
| Native Hawaiian/Other Pacific Islander: | | |
| American Indian/Alaskan Native & White: | | |
| Asian & White: | | |
| Black/African American & White: | | |
| Am. Indian/Alaskan Native & Black/African Am.: | | |
| Asian & Native Hawaiian/Other Pacific Islander: | | |
| All Others: | | |
| **TOTAL** | | |
| Female Head of Household: | | |
| Handicapped (Disabled): | | |
| Elderly: | | |
| Immediate prior unemployment | | |

Department of Economic Development

## COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
## PROGRAM INCOME FORM ED/4

The repayment and reuse of program income in the State's CDBG economic development program is governed by the terms of the Application/Funding Approval and Program Income Policy developed for the program. A Grantee is required on a biannual basis to report program income received from repayment of a loan and the disposition of same. Complete the items below in detail and forward three copies of this report to DED, P.O. Box 118, Jefferson City, MO 65102, by January 15 and July 15 of each year, until release of this requirement is received in writing from DED.

---

Grantee (City/County): _____ Date: _____

Project No.: _____ Company Assisted: _____

Company Mailing Address: _____

Grantee's (City/County) Contact Person: _____

1. Date of Grant Award: _____
2. Amount of Original Loan: $ _____
3. Terms of Loan: _____ ; _____; _____
   (# of years; interest rate; # of installments)
   Payable _____; first installment due _____
   (monthly/semi annually/annually; date)
4. Option exercised by Grantee regarding program income at application/funding stage (check applicable choice made):
   - ❑ Return all program income to State.
   - ❑ Return principal to State; retain interest.
   - ❑ Retain all program income.
5. Repayment received to date: _____
   Principal $ _____ Interest $_____ Total $ _____
6. If any repayments have not been received, briefly describe what actions have been taken to correct the situation: _____
   _____
7. Status of program income: _____
   If program income has not been reused, indicate on line above. If it has been reused, indicate below.

| Date | Amount | Payee | Date Approved or Received by DED | Number of Jobs Involved |
|---|---|---|---|---|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |